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ISAEUS



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# ISAEUS

WITH AN ENGLISH TRANSLATION BY  
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# CONTENTS

PAGE

## INTRODUCTION—

The Life and Writings of Isaeus . . .	vii
The Place of Isaeus among the Attic Orators . . . . .	xi
The Athenian Laws of Inheritance . . .	xii
The Text . . . . .	xiv
Bibliography . . . . .	xvi

I. ON THE ESTATE OF CLEONYMUS . . .	1
II. ON THE ESTATE OF MENECLÉS . . .	35
III. ON THE ESTATE OF PYRRHUS . . .	69
IV. ON THE ESTATE OF NICOSTRATUS . . .	125
V. ON THE ESTATE OF DICAEOGENES . . .	151
VI. ON THE ESTATE OF PHILOCTEMON . . .	195
VII. ON THE ESTATE OF APOLLODORUS . . .	243
VIII. ON THE ESTATE OF CIRON . . .	281
IX. ON THE ESTATE OF ASTYPHILUS . . .	321
X. ON THE ESTATE OF ARISTARCHUS . . .	353
XI. ON THE ESTATE OF HAGNIAS . . .	381
XII. ON BEHALF OF EUPHILETUS . . .	427
THE FRAGMENTS AND LOST SPEECHES OF ISAEUS .	443
INDEX . . . . .	483



# INTRODUCTION

## THE LIFE AND WRITINGS OF ISAEUS

WE possess fewer details about the life of Isaeus than about that of any other of the Attic orators. No contemporary writer alludes to him, and our earliest authority is the literary critic Dionysius of Halicarnassus, who wrote in the Augustan age, and supplies us with a meagre biography, to which later writers have nothing substantial to add. His account of the life of Isaeus (*De Isaeo*, § 1, pp. 586-8) <sup>a</sup> is as follows :

“ Isaeus, the teacher of Demosthenes—and this is his chief title to fame—was according to some an Athenian by birth, according to others a Chalcidian. He flourished after the Peloponnesian War, as I gather from his speeches, and survived into the reign of Philip. I cannot state the exact date of his birth and death, nor can I give any account of his manner of life or political principles, nor do I know whether he held any particular views ; in fact I am ignorant on all such points, since I have never come across any account of him. Even Hermippus, <sup>b</sup> who wrote about the pupils of Isocrates, though he gives details about the others, has only recorded two facts about Isaeus,

<sup>a</sup> Dion. Hal. *Opuscula*, ed. Usener-Radermacher, pp. 93-4.

<sup>b</sup> H. of Smyrna (c. 200 B.C.).

## INTRODUCTION

namely, that he was a pupil of Isocrates and that he taught Demosthenes."

There can be little doubt that Isaeus was a native of Chalcis <sup>a</sup>; had he been an Athenian, it is difficult to see how the tradition of his Chalcidian origin could have originated. It seems likely, therefore, that, like Deinarchus and Lysias, he was a resident alien (μέτοικος) at Athens, a fact which would account for his abstention from politics. It is not impossible, however, that he was of Athenian descent, since in 509 B.C. the Athenians, after their victory over the Chalcidians, sent out 4000 settlers to Chalcis (Herod. v. 77).

The indications given by Dionysius regarding the date of Isaeus are so vague as to be of little value; more definite results can be obtained from the internal evidence of his surviving speeches, some of which can be more or less accurately dated. The earliest is that *On the Estate of Dicaeogenes* (Or. v.), which can be dated about 389 B.C.,<sup>b</sup> the latest that *On behalf of Euphiletus*, which dates from about 344 B.C.<sup>c</sup> These dates give the approximate limits of his professional activity. We shall probably be not far wrong if we place the date of his birth between 415 and 410 B.C.; his death must have occurred some time after 344 B.C.

There is no reason to doubt the statement that Isaeus was a pupil of Isocrates, especially as Dionysius, as we have seen, quotes an early authority for it. Isaeus must have been among the earliest of the

<sup>a</sup> Harpocration, *s.v.* 'Ισαῖος, quotes the authority of Demetrius of Magnesia (first century B.C.) in support of the Chalcidian origin of Isaeus.

<sup>b</sup> See p. 157.

<sup>c</sup> See p. 430.



## INTRODUCTION

pupils of Isocrates, who opened his school at Athens about the year 392 B.C.

The tradition that Isaeus was the teacher of Demosthenes is repeated by all his biographers. Dionysius (*De Isaeo*, § 4, p. 592) quotes the saying of Pytheas, the enemy of Demosthenes, that he "had swallowed Isaeus whole and all his rhetorical devices," and the internal evidence of the speeches confirms the influence of Isaeus upon Demosthenes. As the latter was born in 384 B.C., he must have begun his studies under Isaeus about 366 B.C., when he came of age and began to contemplate the prosecution of his fraudulent guardians, Aphobus and Onetor, against whom he commenced proceedings in 363 B.C. As Wyse has pointed out,<sup>a</sup> the speeches of Demosthenes against his guardians contain several passages which directly copy or imitate the eighth speech of Isaeus (*On the Estate of Ciron*).

The meagreness of our information about the life of Isaeus is no doubt due to the fact that he took no part in public life, but devoted himself entirely to his profession of speech-writing on behalf of others. According to the pseudo-Plutarchian *Lives of the Ten Orators*, Isaeus left behind him sixty-four speeches, of which fifty were regarded as genuine, and a treatise on rhetoric. Eleven orations, all concerned with cases of inheritance, have come down to us, and a large fragment (Or. xii.), preserved by Dionysius of Halicarnassus, written on behalf of one whose political rights were threatened. The titles and some fragments of forty-three other speeches have survived; <sup>b</sup> these cover a much wider field, and were

<sup>a</sup> *The Speeches of Isaeus*, pp. 591-2, 597-8, 606, 624.

<sup>b</sup> See pp. 445 ff.

## INTRODUCTION

delivered in a variety of cases concerned with real property, guardianship, sureties, adoption, assault, and rights of citizenship. The only two lost speeches which can possibly have had any connexion with public affairs are that *Against the Megarians*,<sup>a</sup> the genuineness of which is doubtful, and that *On the Speeches made in Macedonia*.<sup>a</sup> He seems to have been sufficiently well known to the general public to have figured in the *Theseus* of the comic poet Theopompus.<sup>b</sup>

The reputation of Isaeus as a speech-writer rested mainly on his skill in dealing with cases of inheritance (κληρικὸι λόγοι). No doubt his speeches on this topic came first in the collected *Corpus* of his works, for which our ms. authority ends abruptly in the middle of the eleventh oration. They show an extraordinary grasp of the intricacies of Athenian testamentary law, for which, indeed, they are our chief authority, and a consummate skill in clearly presenting complicated cases often involving intricate family relationships. Isaeus gives us a unique picture of Athenian family life, though certainly not in its pleasantest aspect, since nothing embitters family relations so much as quarrels about money. He appears to have won a reputation for his cleverness in making the worse cause appear the better,<sup>c</sup> —perhaps the strongest testimony which could be given to his skill; his speeches certainly contain specious arguments and suppressions, and even perversions, of the truth, but, after all, the object of an advocate is to win his case, and the better the

<sup>a</sup> See p. 454.

<sup>b</sup> Ps.-Plutarch, *Vita Isaevi*.

<sup>c</sup> Dion. Hal. *De Isaeo*, § 4, p. 591.

## INTRODUCTION

advocate the more likely is he to be employed in desperate causes.

### THE PLACE OF ISAEUS AMONG THE ATTIC ORATORS

The place of Isaeus in the development of Greek oratorical prose can be best appreciated by comparing him with his predecessor Lysias on the one hand, and his pupil Demosthenes on the other. With Lysias he has many points in common : both wrote the purest Attic Greek ; both, as Dionysius points out, are simple, concise, clear, and vivid in their style. Isaeus, however, lacks the peculiar charm and grace of Lysias, and his skill in appreciating the psychology of the person for whom he is writing a speech, and in adopting a style and tone suitable to his character and circumstances. Isaeus is less subtle but more vehement, especially in the expression of just indignation and in carefully reasoned remonstrance ; he gets to grips with his adversary as Lysias never succeeds in doing. Again, he is singularly deficient in humour <sup>a</sup> and lightness of touch as compared with Lysias, and on occasions does not scruple to descend to scurrilous abuse and innuendo, from which Lysias, with his more refined nature, would have shrunk. In "composition" (σύνθεσις), though Lysias to a large extent freed himself from the intricate style of his predecessors, he is still in some degree under its influence, particularly in his love of antitheses ; Isaeus, on the other hand, is almost wholly free from the shackles of the periodic style. In the arrange-

<sup>a</sup> The only instance of humour in his surviving speeches is the description of the numerous claimants for the estate of Nicostratus (Or. iv. §§ 7-10), see p. 135.

## INTRODUCTION

ment of his subject matter Lysias adheres rigorously to the four conventional divisions of proem, narrative, proof, and epilogue ; Isaeus is a more clever tactician, and arranges his materials in whatever manner he thinks will have the greatest effect on his hearers. While Lysias usually offers only a rhetorical proof, Isaeus is not content unless he can present a proof which is completely systematic and logical.

Demosthenes stands both intellectually and morally on a far higher plane than Isaeus ; but he owed not a little to his teacher. He resembles him in his arrangement of his subject matter so as to produce the greatest effect, in his method of grappling with his opponent, and in his love of exhaustive proof. But Demosthenes in his private orations can meet and defeat Isaeus on his own ground, forensic oratory ; in the wider field of political eloquence his mastery of every tone of which the Greek language is capable, his burning patriotism, and his statesmanlike width of view mark him as an original genius unique in the history of oratory.

### THE ATHENIAN LAWS OF INHERITANCE

For the understanding of the speeches of Isaeus it is necessary very briefly to summarize the Attic laws regulating inheritance :

(a) A citizen who had no legitimate or adopted children might devise his property to anyone he chose, the usual method being to adopt a son (or, less often, a daughter) as his heir. A will could not be upset unless it were proved that the testator was under a disability through insanity or disease, or was a victim of undue influence or duress.

## INTRODUCTION

(b) Sons inherited their father's property in equal shares, unless they had been adopted into another family.

(c) In default of sons and their issue, daughters and their issue succeeded ; but a daughter was not, strictly speaking, an heiress, but was attached to the estate (*ἐπίκληρος*), which, if she were unmarried, the father usually devised to some person on condition that he married her. If there were no such provision by will, the nearest kinsman, who became her guardian, had the option of marrying her and claiming the estate ; otherwise he was under the obligation of providing her with a husband, and the estate devolved on her son, or sons, when they came of age.

(d) If there were no lineal descendants, an intestate estate passed to the nearest collateral relative on the father's side, with a preference in favour of males, as far as the children of first cousins. Failing these, it passed to the collateral relatives on the mother's side under the same conditions.

Three points, which occur frequently in the speeches, call for brief notice. The first is the extensive use made of adoption, which was due to a desire to keep up the continuity of the family, particularly in view of the importance attached to the ceremonies which had to be carried out at the family tomb. Secondly, a curious preference, entirely at variance with modern practice, was shown by Athenian judges for the title of kinship over the rights conferred by testament ; it appears that wills, although admitted to be properly executed, were not infrequently assailed and annulled in favour of kinsmen who had been passed over. Thirdly,



## INTRODUCTION

the evidence of slaves could only be given under torture, and, though the elaborate defences of this practice by the orators seems to show that the Athenians thought that it stood in need of apology, such evidence was regarded as the most reliable form of proof.

### THE TEXT

The foundation of the text of Isaeus is a thirteenth-century ms. on vellum in the British Museum, the Codex Crippsianus (A) (British Museum Burneianus 95).<sup>a</sup> It contains Andocides, Isaeus, Deinarchus, Antiphon, Lycurgus, Gorgias, Alcidas, Lesbonax, and Herodes. Originally in the library of the monastery of Vatopedi on Mount Athos, it passed into the hands of the Phanariot Greek Prince Alexander Bano Hantzerli of Constantinople, from whom it was purchased by John Marten Cripps in the first years of the nineteenth century. It subsequently formed part of the collection of Dr. Charles Burney, whose books and mss. were purchased by the nation in 1827 and placed in the British Museum. It has been frequently collated, in particular by Thalheim in 1880, by Buermann in 1881-2, and by Wyse, who states that his collation produced no important variation from that of Buermann.

It is generally agreed that A shows two classes of corrections. One class, usually called A<sup>1</sup>, seems to be due to the original scribe, who compared his copy with the original and corrected any errors which he had made, and very occasionally introduced conjectures of his own. The second class (A<sup>2</sup>) consists

<sup>a</sup> For a complete account of this ms. see Wyse, *The Speeches of Isaeus*, pp. viii ff.

## INTRODUCTION

of corrections which begin in the 3rd oration, and are irregularly distributed over the remaining speeches. Wyse estimates the emendations of A<sup>2</sup> at "about 190, of which not more than 25 or 26 are clearly wrong." It is uncertain whether or no the corrections of A<sup>2</sup> are due to the consultation of another ms. or to the unaided ingenuity of the corrector himself. Many of them are such as any ordinary Greek scholar could make; others show considerable learning.

Thus A<sup>1</sup> represents a considerable improvement on A, while A<sup>2</sup> is usually right, though occasionally obviously wrong, in its further corrections. This being so, in order not to overburden the *apparatus criticus*, the readings of A, A<sup>1</sup>, and A<sup>2</sup> have not been set out in full, and for details of these the reader is referred to the editions of Wyse and Thalheim. While obvious and unimportant corrections of spellings etc. are not noted, any reading adopted in the text which is not found in the mss. is noted and the authority indicated, and is followed by the ms. reading, which, unless it is otherwise stated, is that found in A as corrected by A<sup>1</sup>.

It is now generally agreed that of the other existing mss. of Isaeus, B (Laurentianus), L (Marcianus), M (Brit. Mus. Burneianus 96), P (Ambrosianus, A 99), and Z (Vratislaviensis) are all derived from A. The only independent ms. is Q (Ambrosianus, D 42 sup.), which contains only the first two orations. Its independence is proved by the presence of words not found in A; it is carelessly written and shows frequent omissions, and is obviously inferior to A.

In the text square brackets [ ] have been used to enclose words appearing in the original which are not

## INTRODUCTION

translated, and angular brackets < > to indicate words inserted without ms. authority.

### BIBLIOGRAPHY

The *editio princeps* of Isaeus was that of Aldus (Venice, 1513), based on the inferior fifteenth-century ms. L (Marcianus) and full of typographical errors. This was followed by the editions of Stephanus (Paris, 1575) and Reiske (Leipzig, 1773) with valuable annotations by the editor, who also incorporated the notes of Scaliger (1540-1609); both these editions contributed greatly to the purgation of the text, but were based on inferior mss., L, M, Z, P, which do not include Or. i. 22 ἢ ἐκείνω to Or. ii. 47 καταστήσῃτε. The second oration was published in full for the first time by Tyrwhitt from B in 1785. The first edition which made use of the Crippsianus (A) was that of Bekker (Oxford, 1823). This was followed by the editions of Dobson (London, 1828)\*, which included the valuable notes of Dobree; Schoemann (Greifswald, 1831)\* containing the first comprehensive commentary; Baiter and Sauppe (Zurich, 1840)\*; Scheibe (Leipzig 1860)\*; Buermann (Berlin, 1883); Thalheim (Leipzig, 1903)\*; and W. Wyse (*The Speeches of Isaeus*, Cambridge, 1904)\* with the most valuable and exhaustive commentary which has yet appeared.

The speeches have been translated into English by Sir William Jones (1779)\*; into French by Dareste and Hassoullier (1898), and Pierre Roussel (1922)\*; into Italian by Caccialanza (1901); into German by Schoemann (1830) and Munscher (1919).

For a bibliography of modern theses and articles

xvi

## INTRODUCTION

the reader is referred to Wyse, *op. cit.* pp. lx-lxi, and Thalheim, pp. ix-x.<sup>a</sup> For the general study of Isaeus reference may be made to R. C. Jebb, *The Attic Orators from Antiphon to Isaeus* (2nd ed., 1893)\*; J. F. Dobson, *The Greek Orators* (1919); L. Moy, *Étude sur les plaidoyers d'Isée* (1876); and F. Blass, *Die attische Beredsamkeit* (2nd ed., 1892)\*.

(The asterisk indicates those works which have been principally used in the preparation of this translation.)

<sup>a</sup> To the articles by P. S. Photiades, cited by Thalheim, should be added further articles dealing with the first four orations published in 'Αθηνᾶ, 1922 and 1923, and Νομικὸν Περι-οδικόν, 1924. The loss of Dr. Photiades' ms. notes on Isaeus, which embodied the work of many years, as well as of his valuable library of books on the Greek orators, in the destruction of Smyrna, calls for the sympathy of all classical scholars. It is much to be hoped that he will be able to reconstruct his notes on the remaining speeches of Isaeus.





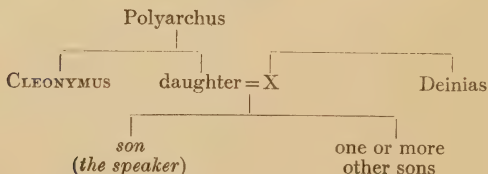
I. ON THE ESTATE OF CLEONYMUS

## INTRODUCTION

CLEONYMUS, the son of Polyarchus,<sup>a</sup> dying without issue, left a will bequeathing his estate to certain of his relatives who were not his next of kin. There is no evidence of their exact relationship to the testator, nor is it certain how many of them there were. Two of them were Pherenicus (§§ 31, 45) and Poseidippus (as appears from § 23), and it may be inferred from § 45 (Φερένικος ἡ τῶν ἀδελφῶν τις) that they were brothers, and that there was at least one more brother concerned, possibly Diocles mentioned in §§ 14, 23. The author of the Argument prefixed to the Speech (where see note) includes Simon among the beneficiaries, but this is certainly a mistake. The will had been made some years before Cleonymus's death, and had been deposited for safety in official custody.

The claimants under the will were attacked by the next-of-kin, who, in the absence of the will, would

<sup>a</sup> STEMMA



## ON THE ESTATE OF CLEONYMUS

have been the legal heirs, and one of whom is the speaker, acting on behalf of himself and his brother or brothers. They appear to have been the sons of Cleonymus's sister, whose husband's brother, Deinias, acted as their guardian after their father's death.

Before the case came on for trial an attempt had been made to arrive at a compromise by means of arbitration. The arbitrators must have included friends of both parties, but in the speech they are represented as being all friends of the speaker's opponents. The arbitrators suggested that the nephews should receive a third of the estate and abandon any further claim. Encouraged by this offer, and using it as an argument in favour of the justice of their claim, the nephews proceeded to claim the whole estate, relying (§ 41) on the well-known bias of the Athenian judges towards the claims of the next-of-kin in preference to those of legatees under a will.

The claimants, while fully admitting the genuineness of the will and the right of Cleonymus to dispose of his property, rely in the main on the argument that the will does not represent the last wishes of the testator. At the time when it was made they were quite young and under the tutelage of Deinias, with whom Cleonymus had quarrelled. Subsequently, according to their account, after the death of Deinias, Cleonymus had received them into his house and brought them up and protected their interests in every possible way. At the time of his death they were on terms of close intimacy with him, while he was at variance with some at least of the beneficiaries under the will. During his last illness, they allege, he had wished to revoke the will, and had sent

## ISAEUS

Poseidippus to demand it back from the official in whose custody it was, but Poseidippus had not only refused to go, but had also sent away one of the officials who came to the house—obviously because he and the other legatees were afraid that Cleonymus had changed his intentions—and Cleonymus, dying suddenly the next day, had been unable to record his final wishes about the property. They further allege that Cleonymus's father, Polyarchus, had left instructions that, if anything happened to him, he was to leave his property to themselves.

A specious attempt is made to put the judges on the horns of a dilemma by the argument that either Cleonymus, in sending for the will, wished to revoke it in favour of his nephews, or else he was not in his right senses in neglecting their stronger claims both of affinity and of intimacy with him ; in either case, they urge, the judges must decide against the will and award the inheritance to them as next-of-kin.

Though presented with considerable skill the case is obviously a weak one, and no modern jury would have listened for a moment to such arguments in favour of upsetting an admittedly genuine will. The whole question is made to turn upon the intention of the testator ; but if, as the speaker urges, he had intended to alter his will, why should he have let so many years pass by without doing anything, and then, in his last illness, send one of the beneficiaries under the will to fetch the will in order that he might revoke it in favour of others ? Moreover, if he had intended to make his nephews his heirs, he would almost certainly have followed the practice so common at Athens of adopting one or more of them as his sons during his lifetime, and so assured

## ON THE ESTATE OF CLEONYMUS

the continuity of family upon which the Athenians set so much store.

The speech contains no historical allusions by which its date might be determined, and there is no external evidence regarding any of the persons concerned in it.

## Ι.—ΠΕΡΙ ΤΟΥ ΚΛΕΩΝΥΜΟΥ ΚΛΗΡΟΥ

### ΥΠΟΘΕΣΙΣ

Ἀδελφιδοὶ Κλεωνύμου τελευτήσαντος ἐπὶ τὸν κλῆρον ἔρχονται κατὰ γένος, τὰς διαθήκας, ἃς παρέχονται εἰς αὐτοὺς<sup>1</sup> οἱ περὶ Φερένικον καὶ Σίμωνα καὶ Ποσειδίππον, γράψαι, ὡς ἀληθὲς ἦν, καὶ θεῖναι παρὰ τοῖς ἄρχουσιν ὁμολογοῦντες Κλεώνυμον κατὰ τὴν πρὸς Δεινίαν τὸν ἐπίτροπον αὐτῶν ὀργήν, ὕστερον δὲ ἐπιχειρήσαντα λῦσαι καὶ μεταπεμψάμενον τὸν ἀστυνόμον ἐξαίφνης ἀποθανεῖν<sup>2</sup>. καὶ Πολύαρχον δὲ τὸν πάππον αὐτῶν, Κλεωνύμου δὲ πατέρα, προστάξαι, εἴ τι πάσχοι Κλεώνυμος, δοῦναι αὐτοῖς τὰ ὑπάρχοντα. ἡ στάσις ὅρος διπλοῦς κατὰ ἀμφισβήτησιν· οἱ μὲν γὰρ ἄλλοι ταῖς γενομέναις ἐξ ἀρχῆς διαθήκαις δισχυρίζονται, οἱ δέ, λέγοντες [φησὶν] ὅτι μετεκαλέσατο<sup>3</sup> τὸν ἄρχοντα, ἵνα λύσῃ αὐτάς, τοῖς<sup>4</sup> τελευταῖον παρὰ τοῦ Κλεωνύμου γενομένοις.

- 1 Πολλὴ μὲν ἡ μεταβολὴ μοι γέγονεν, ὦ ἄνδρες, τελευτήσαντος Κλεωνύμου. ἐκεῖνος γὰρ ζῶν μὲν ἡμῖν κατέλιπε τὴν οὐσίαν, ἀποθανὼν δὲ κινδυνεύειν περὶ αὐτῆς πεποίηκε. καὶ τότε μὲν οὕτως ὑπ' αὐτοῦ σωφρόνως ἐπαιδευόμεθα, ὥστ' οὐδ' ἀκροασόμενοι οὐδέποτ' ἤλθομεν ἐπὶ δικαστήριον, νῦν δὲ ἀγωνιούμενοι περὶ πάντων ἤκομεν τῶν ὑπαρχόντων· οὐ γὰρ τῶν Κλεωνύμου μόνον ἀμφισβητοῦ-

<sup>1</sup> αὐτοὺς Schoemann: καὶ τὰς.

<sup>3</sup> μετεκαλέσατο Q: -αντο.

<sup>2</sup> ἀποθανεῖν add. Aldus.

<sup>4</sup> τοῖς Sauppe: καὶ.

## I. ON THE ESTATE OF CLEONYMUS

### ARGUMENT

Cleonymus having died, his nephews claim his estate as the natural heirs. They admit that the will in favour of Pherenicus, Simon,<sup>a</sup> and Poseidippus, and produced by these persons, was the genuine will of Cleonymus, and was deposited by Cleonymus with the magistrates at a time when he was angry with their guardian Deinias; they allege, however, that he subsequently tried to annul the will, and after having sent for the police-magistrate, died suddenly. They further allege that Polyarchus, their grandfather and Cleonymus's father, instructed the latter, if anything should happen to him, to leave his property to them. The question at issue is a decision between the conflicting claims of the two parties, one basing their claim on the original will, the other relying on the last acts of Cleonymus, and alleging that he sent for the magistrate in order to annul the will.

Great indeed, gentlemen, is the change which the death of Cleonymus has brought upon me. In his lifetime he devised his property to us; his death has exposed us to the danger of losing it. While he lived, we were so discreetly brought up by him that we never entered a law court even as listeners; now we have come here to fight for all that we possess; for our opponents claim not only Cleonymus's property,

<sup>a</sup> The insertion of Simon's name here is a mistake; he was only a friend of Cleonymus (see §§ 31, 32).

- σιν ἀλλὰ καὶ τῶν πατρώων, ὀφείλειν ἐπὶ τούτοις  
 2 <ἡμᾶς><sup>1</sup> ἐκείνῳ φάσκοντες ἀργύριον. καὶ οἱ μὲν  
 οἰκείοι καὶ οἱ προσήκοντες [ἐπὶ τούτοις] οἱ  
 τούτων ἀξιοῦσιν ἡμᾶς καὶ τῶν ὁμολογουμένων, ὧν  
 Κλεώνυμος κατέλιπεν, αὐτοῖς τούτων ἰσομοιρῆσαι.  
 οὔτοι δὲ εἰς τοῦτο ἤκουσιν ἀναισχυντίας, ὥστε καὶ  
 τὰ πατῶα προσαφελέσθαι ζητοῦσιν ἡμᾶς, οὐκ  
 ἀγνοοῦντες, ὦ ἄνδρες, τὸ δίκαιον, ἀλλὰ πολλὴν  
 ἡμῶν ἐρημίαν καταγνόντες.  
 3 Σκέψασθε γὰρ οἷς ἐκάτεροι πιστεύοντες ὡς ὑμᾶς  
 εἰσεληλύθαμεν· οὔτοι μὲν διαθήκαις ἰσχυρίζομενοι  
 τοιαύταις, ἃς ἐκείνος διέθετο<sup>2</sup> μὲν οὐχ ἡμῖν ἐγκα-  
 λῶν ἀλλ' ὀργισθεὶς τῶν οἰκείων τινὶ τῶν ἡμετέρων,  
 ἔλυσε δὲ πρὸ τοῦ θανάτου, πέμψας Ποσειδίππον  
 4 ἐπὶ τὴν ἀρχήν· ἡμεῖς δὲ γένει μὲν ἐγγυτάτῳ προσ-  
 ἤκοντες, χρώμενοι δὲ ἐκείνῳ πάντων οἰκειότατα,  
 δεδωκότων δ' ἡμῖν καὶ τῶν νόμων κατὰ τὴν ἀγ-  
 χιστείαν καὶ αὐτοῦ τοῦ Κλεωνύμου διὰ τὴν φιλίαν  
 τὴν ὑπάρχουσαν αὐτῷ, ἔτι δὲ Πολυάρχου, τοῦ  
 πατρὸς <τοῦ><sup>3</sup> Κλεωνύμου, πάππου δ' ἡμετέρου,  
 προστάξαντος, εἴ τι πάθοι Κλεώνυμος ἅπαις, ἡμῖν  
 5 δοῦναι τὰ αὐτοῦ. τοσούτων τοίνυν ἡμῖν ὑπ-  
 αρχόντων οὔτοι, καὶ συγγενεῖς ὄντες καὶ οὐδὲν  
 δίκαιον εἰπεῖν ἔχοντες, οὐκ αἰσχύνονται καταστή-  
 σαντες ἡμᾶς εἰς ἀγῶνα περὶ τούτων, περὶ ὧν αἰ-  
 σχρὸν ἦν ἀμφισβητῆσαι καὶ τοῖς μηδὲν προσ-  
 6 ἤκουσιν. οὐχ ὁμοίως δέ μοι δοκοῦμεν, ὦ ἄνδρες,  
 διακεῖσθαι πρὸς ἀλλήλους. ἐγὼ μὲν γὰρ οὐχ ὅτι  
 ἀδίκως κινδυνεύω, τοῦθ' ἡγοῦμαι μέγιστον εἶναι  
 τῶν παρόντων κακῶν, ἀλλ' ὅτι ἀγωνίζομαι πρὸς

<sup>1</sup> ἡμᾶς add. Buermann.<sup>2</sup> διέθετο Scaliger: δὴ ὑπέθετο.<sup>3</sup> τοῦ add. Dobree.



## ON THE ESTATE OF CLEONYMUS, 1-6

but also our patrimony, alleging that we owe his estate money as well. Their own friends and relatives concede our right to an equal share with them in the undisputed property which Cleonymus left behind him ; but our opponents have become so impudent that they are seeking to deprive us even of our patrimony—not because they are ignorant, gentlemen, of what is just, but because they are convinced of our utter helplessness.

For consider the grounds on which the respective parties rely in coming before you. Our opponents insist upon a will which our uncle drew up, not because he had any ground of complaint against us, but through anger against one of our relatives, and which he annulled before his death, sending Poseidippus to the magistrate's office for the purpose. We were Cleonymus's nearest relatives, and lived on terms of greater intimacy with him than anyone else ; and the laws have given us the right of succession as next of kin, as also did Cleonymus himself, owing to the affection which subsisted between us. And, further, Polyarchus, Cleonymus's father and our grandfather, gave instructions that, if Cleonymus should die without issue, he was to leave his property to us. Though we have all these claims, our opponents, though they are our relatives and have no justice to urge, are not ashamed to bring us into court in a matter about which it would be disgraceful even for those who are no relatives at all to dispute. But I think, gentlemen, that we and our opponents have not the same feelings towards one another ; for I regard it as the worst feature of my present troubles, not that I am being unjustly placed in peril, but that

- οἰκείους, οὓς οὐδ' ἀμύνεσθαι καλῶς ἔχει· οὐ γὰρ  
 ἂν ἐλάττω συμφορὰν ἡγησαίμην<sup>1</sup> κακῶς ποιεῖν τού-  
 τους ἀμυνόμενος, οἰκείους ὄντας, ἢ κακῶς παθεῖν  
 7 ἐξ ἀρχῆς ὑπὸ τούτων. οὗτοι δ' οὐ τοιαύτην ἔχουσι  
 [36] τὴν γνώμην, ἀλλ' | ἤκουσιν ἐφ' ἡμᾶς καὶ τοὺς  
 φίλους παρακαλέσαντες καὶ ῥήτορας παρασκευασά-  
 μενοι καὶ οὐδὲν ἀπολείποντες τῆς αὐτῶν δυνάμεως,  
 ὥσπερ, ὦ ἄνδρες, ἐχθροὺς τιμωρησόμενοι, καὶ οὐκ  
 ἀναγκαίους καὶ συγγενεῖς κακῶς<sup>2</sup> ποιήσοντες.  
 8 τὴν μὲν οὖν τούτων ἀναισχυντίαν καὶ τὴν αἰσχρο-  
 κέρδειαν ἔτι μᾶλλον γνώσεσθε, ἐπειδὰν πάντων  
 ἀκούσητε· ὅθεν δ' οἶμαι τάχιστ' ἂν ὑμᾶς μαθεῖν  
 περὶ ὧν ἀμφισβητοῦμεν, ἐντεῦθεν ἄρξομαι διδάσκειν.  
 9 Δεινίας γὰρ ὁ τοῦ πατρὸς ἀδελφὸς ἐπετρόπευσεν  
 ἡμᾶς, θεῖος ὢν ὀρφανούς ὄντας. Κλεωνύμω<sup>3</sup> δ'  
 οὗτος, ὦ ἄνδρες, διάφορος ὢν ἔτυχεν. ὁπότερος  
 μὲν οὖν αὐτῶν ἦν τῆς διαφορᾶς αἴτιος, ἴσως οὐκ  
 ἐμὸν ἔργον ἐστὶ κατηγορεῖν· πλὴν τοσοῦτόν γε ἂν  
 δικαίως αὐτοῖς ἀμφοτέροις μεμψαίμην, ὅτι καὶ  
 φίλοι τέως ὄντες καὶ προφάσεως οὐδεμιᾶς γενο-  
 μένης ἐκ λόγων τινῶν οὕτως εἰκῇ πρὸς ἀλλήλους  
 10 ἔχθραν ἀνείλοντο. τότε<sup>4</sup> γοῦν ἐκ ταύτης τῆς  
 ὀργῆς Κλεώνυμος ταύτας ποιεῖται τὰς διαθήκας,  
 οὐχ ἡμῖν ἐγκαλῶν, ὥς ὕστερον ἔξωθή<sup>5</sup> ἔλεγεν,  
 ὁρῶν δὲ ἡμᾶς ἐπιτροπευομένους ὑπὸ Δεινίου, καὶ  
 δεδιώς μὴ τελευτήσειεν αὐτοὺς ἔτι παῖδας ἡμᾶς  
 καταλιπὼν καὶ τῆς οὐσίας ἡμετέρας οὔσης γένοιτο  
 κύριος Δεινίας· ἡγείτο γὰρ δεινὸν εἶναι τὸν ἔχ-  
 θιστον τῶν οἰκείων ἐπίτροπον καὶ κύριον τῶν

<sup>1</sup> ἡγησαίμην Aldus: -άμην.

<sup>2</sup> κακῶς Stephanus: κακοῦς.

<sup>3</sup> Κλεωνύμω Taylor: -ου.

<sup>4</sup> τότε Schoemann: ὅτι.

<sup>5</sup> ἐξώθη AQ manifeste corruptum.

## ON THE ESTATE OF CLEONYMUS, 6-10

I am at law with kinsmen, against whom even to defend oneself is not creditable ; for I should not regard it as a less misfortune to injure them, my relatives, in my own defence than to have been originally injured by them. They have no such sentiments, but have come against us after calling all their friends to their aid, and procuring orators and mustering all their forces, as though, gentlemen, they were going to punish foes, and not to harm kinsmen and relatives. You will understand their shamelessness and greed better when you have heard the whole story. I will begin my narrative at a point which will, I think, enable you most readily to understand the matters in dispute.

We were orphans, and our uncle Deinias, our father's brother, assumed the guardianship of us. Now it so happened that he was at variance with Cleonymus ; which of the two was to blame for this, it is not perhaps my business to determine, but I might justly find fault with both of them alike, inasmuch as, having previously been friends, without any real pretext, as the result of certain words which were spoken, they became so hastily at enmity with one another. It was at this time, under the influence of this anger, that Cleonymus made this will : not because he had any complaint against us, as he subsequently stated, but because he saw that we were under the guardianship of Deinias, and was afraid that he might himself die while we were minors, and that Deinias might obtain control of the property, if it became ours ; for he could not bear to think of leaving his bitterest enemy as the guardian

- αὐτοῦ καταλιπεῖν, καὶ ποιεῖν αὐτῷ τὰ νομιζόμενα  
 τοῦτον, ἕως ἡμεῖς ἡβήσαιμεν, ὧ ζῶν διάφορος ἦν·  
 11 ταῦτα διανοηθεὶς ἐκεῖνος, εἴτ' ὀρθῶς εἶτε μὴ, τὰς  
 διαθήκας ταύτας διέθετο. καὶ εὐθὺς ἐρωτῶντος  
 τοῦ Δεινίου παραχρῆμα εἴ τι ἡμῖν ἢ τῷ πατρὶ  
 ἐγκαλεῖ τῷ ἡμετέρῳ, ἀπεκρίνατο πάντων τῶν  
 πολιτῶν ἐναντίον ὅτι οὐδὲν πονηρὸν ἐγκαλεῖ, καὶ  
 ἐμαρτύρησεν ὡς ὀργιζόμενος ἐκείνῳ καὶ οὐκ  
 ὀρθῶς βουλευόμενος ταῦτα διέθετο. πῶς γὰρ ἂν  
 εὖ φρονῶν, ὧ ἄνδρες, κακῶς ποιεῖν ἡμᾶς ἐβου-  
 12 λήθη, τοὺς μηδὲν αὐτὸν ἡδικηκότας; ὕστερον  
 δὲ τούτων, ὃ μέγιστον ἡμῖν τεκμήριον ὅτι οὐδὲ  
 ταῦτα ἔπραξεν ἡμᾶς βλάπτειν βουλόμενος· τελευ-  
 τήσαντος γὰρ Δεινίου καὶ τῶν πραγμάτων ἡμῖν  
 πονηρῶς ἐχόντων οὐδὲ περιεΐδεν ἡμᾶς οὐδενὸς  
 ἐνδεεῖς ὄντας, ἀλλ' αὐτοὺς μὲν εἰς τὴν οἰκίαν τὴν  
 αὐτοῦ κομισάμενος ἐπαίδευε, τὴν δ' οὐσίαν ἀφ-  
 ελέσθαι τῶν χρήστων ἐπιβουλευσάντων ἔσωσεν  
 ἡμῖν, ἐπεμελεΐτό τε ὁμοίως τῶν ἡμετέρων ὥσπερ  
 13 τῶν αὐτοῦ πραγμάτων. καίτοι χρή θεωρεῖν αὐτοῦ  
 τὴν ἔννοιαν ἐκ τούτων τῶν ἔργων μᾶλλον ἢ ἐκ τῶν  
 διαθηκῶν, καὶ τεκμηρίοις χρῆσθαι μὴ τοῖς μετ'  
 ὀργῆς πραχθεῖσιν, ἐν οἷς ἅπαντες πεφύκαμεν ἁμαρ-  
 τάνειν, ἀλλ' ἀφ' ὧν ὕστερον φανεράν τὴν αὐτοῦ  
 ἔννοιαν ἐποίησεν. ἔτι γὰρ μᾶλλον ἐν τοῖς τελευ-  
 14 ταίοις ἐδήλωσεν ὡς εἶχε πρὸς ἡμᾶς. ἤδη γὰρ  
 ἀσθενῶν ταύτην τὴν νόσον ἐξ ἧς ἐτελεύτησεν,  
 ἐβουλήθη ταύτας τὰς διαθήκας ἀνελεῖν καὶ προσ-  
 ἔταξε Ποσειδίππῳ τὴν ἀρχὴν εἰσαγαγεῖν. ὁ δὲ οὐ  
 μόνον οὐκ εἰσήγαγεν, ἀλλὰ καὶ τὸν ἐλθόντα τῶν  
 ἀρχόντων ἐπὶ τὴν θύραν ἀπέπεμψεν.<sup>1</sup> ὀργισθεὶς

<sup>1</sup> ἀπέπεμψεν Stephanus: ἀν-.

of his relatives and in control of his property, and of the customary rites being performed over him, until we grew up, by one with whom he had been at variance in his lifetime. Such were the sentiments under which, whether rightly or wrongly, he made this will; and when Deinias immediately asked him at the time whether he had any grievance against us or our father, he replied in the hearing of all that he had no fault to find with us, and so testified that it was his anger against Deinias and not his calm judgement which decided him to make this will. For surely, gentlemen, if he had been in his right senses, he would never have wished to injure us, who had never wronged him. His subsequent conduct is the strongest proof in support of our contention, that even in acting thus he did not intend to injure us. For after Deinias's death, when things were going badly with us, he would not allow us to lack anything, but took us into his own house and brought us up, and saved our property when our creditors were scheming against it, and looked after our interests as though they were his own. It is from these acts rather than from the will that his intentions must be discerned, and inferences must be drawn not from what he did under the influence of anger—through which we are all liable to err—but from his subsequent acts, whereby he made his attitude quite clear. In his last hours he showed still more plainly his feelings toward us. For, when he was suffering from the illness of which he died, he wished to revoke this will, and directed Poseidippus to fetch the magistrate. Not only did he fail to do so, but he even sent away one of the magistrates who had come to the door.

δὲ τούτῳ Κλεώνυμος πάλιν ἐς τὴν ὑστεραίαν Διοκλεῖ καλέσαι τοὺς ἄρχοντας προσέταξε, καὶ οὐχ οὕτως ὡς ἀσθενῶν διακείμενος· ἀλλ' ἔτι πολλῶν οὐσῶν ἐλπίδων, ἐξαπίνης τῆς νυκτὸς ταύτης ἀπέθανεν.

- 15 Πρῶτον μὲν οὖν ὑμῖν παρέξομαι μάρτυρας ὡς οὐχ ἡμῖν ἐγκαλῶν ἀλλὰ Δεινία πολεμῶν ταύτας τὰς διαθήκας διέθετο, ἔπειτα ὡς ἐκείνου τελευτήσαντος ἐπεμελεῖτό τε τῶν ἡμετέρων ἀπάντων, καὶ αὐτοὺς<sup>1</sup> ἐπαίδευεν εἰς τὴν οἰκίαν τὴν αὐτοῦ κομισάμενος, πρὸς δὲ τούτοις ὡς Ποσειδίππον ἔπεμψεν ἐπὶ τὸν ἀστυνόμον, οὗτος δ' οὐ μόνον αὐτὸς οὐκ εἰσεκάλεσεν, ἀλλὰ καὶ ἐλθόντα ἐπὶ τὴν θύραν
- 16 [ἀρχονίδην] ἀπέπεμψεν. ὡς οὖν ἀληθῆ λέγω, κάλει μοι τοὺς μάρτυρας.

## ΜΑΡΤΥΡΕΣ

Ἔτι τοίνυν ὡς οἱ τούτων φίλοι καὶ Κηφίσανδρος ἡξίουں νείμασθαι τὴν οὐσίαν καὶ τὸ τρίτον μέρος ἡμᾶς ἔχειν ἀπάντων τῶν Κλεωνύμου, καὶ τούτων [37] μοι κάλει | μάρτυρας.

## ΜΑΡΤΥΡΕΣ

- 17 Ἐγούμαι μὲν τοίνυν, ὦ ἄνδρες, πᾶσι τοῖς τῶν κλήρων ἀμφισβητοῦσιν, ὅταν ἀποφήνωσι σφᾶς αὐτοὺς ὥσπερ ἡμεῖς καὶ τῷ γένει προτέρους ὄντας καὶ τῇ φιλίας τῇ πρὸς τὸν τετελευτηκότα, περίεργον εἶναι τοὺς ἄλλους λόγους λέγειν· ἐπειδὴ δὲ τούτων οὐδέτερον ἔχοντες οὗτοι<sup>2</sup> τολμῶσι τῶν οὐ προσηκόντων ἀμφισβητεῖν καὶ ψευδεῖς παρασκευάζονται λόγους, βούλομαι βραχέα καὶ περὶ τούτων

<sup>1</sup> αὐτοὺς Reiske: αὐτὸς.

<sup>2</sup> οὗτοι Bekker: οὕτω.

## ON THE ESTATE OF CLEONYMUS, 14-17

Cleonymus was enraged at this, and again gave instructions, this time to Diocles, to summon the magistrates for the following day, though he was in no fit state to transact business owing to his illness; but, although there was still good hope of his recovery, he died suddenly that night.

I will now produce witnesses to prove, first, that the motive of Cleonymus in making this will was not any grievance against us, but his enmity towards Deinias; secondly, that after Deinias's death he looked after all our interests, and took us to his own house and brought us up; and, thirdly, that he sent Poseidippus for the magistrate, but not only did he himself fail to summon him, but also sent him away when he came to the door. To prove the truth of my statements, please call the witnesses.

### WITNESSES

Next call witnesses to testify that the friends of our opponents, including Cephisander, were of opinion that the parties should share the estate, and that we should have one third of all that Cleonymus possessed.

### WITNESSES

I think, gentlemen, that in any dispute about an inheritance, if the claimants can prove, as we can, that they are nearer both in affinity and in affection to the deceased, all other arguments are superfluous. But, since my opponents, though they can urge neither of these titles, have the impudence to claim what does not belong to them, and are trumping up false arguments, I should like to say a few words on



- 18 αὐτῶν εἰπεῖν. ἰσχυρίζονται γὰρ ταῖς διαθήκαις, λέγοντες ὡς Κλεώνυμος μετεπέμπετο τὴν ἀρχὴν οὐ λῦσαι βουλόμενος αὐτὰς ἀλλ' ἐπανορθῶσαι καὶ βεβαιῶσαι σφίσιν αὐτοῖς τὴν δωρεάν. ὑμεῖς δὲ σκοπεῖσθε τὰς διαθήκας τὰς μετ' ὀργῆς γενομένας πότερα εἰκὸς ἐστὶ βουλευθῆναι Κλεώνυμον ἀνελεῖν, ἐπειδὴ πρὸς ἡμᾶς οἰκείως ἔσχεν, ἢ σκοπεῖν ὅπως ἔτι βεβαιότερον ἡμᾶς ἀποστερήσει<sup>1</sup> τῶν αὐτοῦ.
- 19 τοῖς μὲν γὰρ ἄλλοις κακείνων ὧν ἂν ὀργισθέντες τοὺς οἰκείους ἀδικήσωσιν ὕστερον μεταμέλει· οὗτοι δὲ ἐκείνον ἀποφαίνουσιν, ἐν ᾧ πρὸς ἡμᾶς οἰκειότατα διέκειτο, μᾶλλον βεβαιοῦν τὴν διαθήκην βουλόμενον, ἣν ὀργιζόμενος ἐποιήσατο. ὥστ' εἰ καὶ ἡμεῖς ὁμολογήσαιμεν<sup>2</sup> ταῦτα καὶ ὑμεῖς αὐτοὶ πιστεύσαιτε,<sup>3</sup> ἐνθυμεῖσθε ὅτι παράνοιαν αὐτοῦ τὴν μεγίστην οὗτοι κατηγοροῦσι. τίς γὰρ ἂν γένοιτο ταύτης μανία μείζων, ἢ τότε μὲν ὅτε Δεινία διάφορος ὧν ἔτυχεν, ἡμᾶς κακῶς ποιεῖν τε καὶ διατίθεσθαι τοιαύτας διαθήκας, ἐξ ὧν οὐκ ἐκείνον ἐτιμωρεῖτο ἀλλὰ τοὺς οἰκειοτάτους ἡδίκηκε· νυνὶ δὲ χρώμενος ἡμῖν καὶ περὶ πλείστου ποιούμενος ἀπάντων, μόνους ἐβουλήθη τοὺς ἀδελφιδοὺς, ὡς οὗτοί φασιν, ἀκλήρους ποιῆσαι τῶν ἑαυτοῦ. καὶ τίς ἂν εὖ φρονῶν, ὧ ἄνδρες, τοιαῦτα περὶ τῶν
- 21 αὐτοῦ βουλεύσαιο; ὥστ' ἐκ τούτων τῶν λόγων ῥαδίαν ὑμῖν<sup>4</sup> τὴν διάγνωσιν πεποιήκασι περὶ αὐτῶν. εἰ μὲν γὰρ ἀνελεῖν τὰς διαθήκας βουλόμενος μετεπέμπετο τὴν ἀρχήν, ὥσπερ ἡμεῖς φάμεν, οὐδεὶς ἔνεστι τούτοις λόγος· εἰ δ' οὕτω παραφρονῶν

<sup>1</sup> ἀποστερήσει Baiter-Sauppe: -ρήσειε.

<sup>2</sup> ὁμολογήσαιμεν Reiske: -ομεν.

<sup>3</sup> πιστεύσαιτε Reiske: -οιτε.

<sup>4</sup> ὑμῖν Aldus: ἡμῖν.



these very points. They insist upon the will, declaring that Cleonymus sent for the magistrate because he wished, not to revoke it, but to correct it and to confirm the bequest in their favour. Now consider which is the more likely, that Cleonymus, now that he had become friendly towards us, wished to cancel the will which he had made in anger, or that he was seeking a still surer means to deprive us of his property. All other men afterwards repent of wrongs which they have done to their relatives in moments of anger ; Cleonymus is represented by my opponents as desirous, when he was on terms of the closest affection with us, still further to confirm the will which he made in anger. So, even if we were to admit that he did so and you yourselves were to believe it, my opponents, you must observe, are accusing Cleonymus of utter madness. For what greater act of insanity could be committed than that Cleonymus, when he was at variance with Deinias, should wrong us and make a will whereby he did not punish Deinias but wronged his nearest and dearest, whereas now, when he was on terms of the closest friendship with us and held us in higher esteem than anyone else, he should have wished, as my opponents allege, to leave his nephews alone without any share in his property ? Who, gentlemen, in his right mind would determine so to dispose of his estate ? By these arguments they have made it easy for you to decide their case. If it was to revoke the will, as we assert, that Cleonymus sent for the magistrate, they have no possible plea to urge ; if he was so mad as always to have the

ἔτυχεν ὥσθ' ἡμᾶς ἀεὶ περὶ ἐλαχίστου ποιεῖσθαι, τοὺς γένει πρωτεύοντας καὶ χρωμένους αὐτῶ πάντων οἰκειότατα, δικαίως ἂν δήπου τὰς τοιαύτας διαθήκας ἀκύρους ποιήσαιτε.

- 22 Ἐπι τοίνυν ἐνθυμεῖσθε ὅτι φάσκοντες καλεῖν τὴν ἀρχὴν Κλεώνυμον, ἵνα βεβαιώσῃ τὴν αὐτῶν δωρεάν, προσταχθέν αὐτοῖς οὐκ ἐτόλμησαν εἰσαγαγεῖν, ἀλλὰ καὶ τὸν ἐλθόντα τῶν ἀρχόντων ἐπὶ τὴν θύραν ἀπέπεμψαν. καὶ δυοῖν τοῖν ἐναντιωτάτοιον θάτερα μέλλοντες, ἢ τὴν οὐσίαν ἔξειν βεβαιωτέραν ἢ ἐκείνῳ<sup>1</sup> μὴ ποιήσαντες ἀπεχθήσεσθαι, τὴν ἀπέχθεια εἵλοντο μᾶλλον ταύτης τῆς δωρεᾶς. καίτοι πῶς ἂν ἕτερα τούτων γένοιτο
- 23 ἀπιστότερα; τοὺς μὲν τηλικαῦτα μέλλοντας ἐκ τοῦ πράγματος κερδαίνειν, ὥσπερ ζημιωθησομένους, φυλάξασθαι τὴν διακονίαν, Κλεώνυμον δ' ὑπὲρ τῆς τούτων ὠφελείας τοσαύτην ποιήσασθαι σπουδὴν ὥστε Ποσειδίππῳ μὲν, ὅτι κατημέλησεν, ὀργισθῆναι, Διοκλέους δὲ ταυτὰ<sup>2</sup> πάλιν ἐς τὴν ὑστεραίαν δεηθῆναι;
- 24 Εἰ γὰρ δὴ, ὦ ἄνδρες, ὥς οὗτοί φασιν, ἐν ταῖς νῦν γεγραμμέναις διαθήκαις ἔδωκεν αὐτοῖς τὴν οὐσίαν, καὶ τοῦτ' ἄξιον εἶναί μοι δοκεῖ θαυμάζειν, ὅ τί ποτε ἐπανορθώσας κυριωτέρας αὐτὰς ἡγείτ'<sup>3</sup> ἂν ποιῆσαι· τοῖς γὰρ ἄλλοις οὗτος ὅρος ἐστίν, ὦ
- 25 ἄνδρες, τῶν δωρεῶν. ἔτι δὲ καὶ εἴ τι προσγράψαι τούτοις ἐβούλετο, διὰ τί οὐκ ἐν ἐτέρῳ γράψας αὐτὰ γραμματεῖω κατέλιπεν, ἐπειδὴ τὰ γράμματα παρὰ τῶν ἀρχόντων οὐκ ἐδυνήθη λαβεῖν; ἀνελεῖν μὲν γάρ,<sup>4</sup> ὦ ἄνδρες, οὐχ οἷός τ' ἦν ἄλλο γραμματεῖον ἢ τὸ παρὰ τῇ ἀρχῇ κείμενον· γράψαι δ'

<sup>1</sup> ἐκείνῳ Q: ἐκείνο.

<sup>3</sup> ἡγείτ' Cobet: ἡγοῖτ'.

<sup>2</sup> ταυτὰ Cobet: ταῦτα.

<sup>4</sup> μὲν γάρ Q: γὰρ.

## ON THE ESTATE OF CLEONYMUS, 21-25

least regard for us, his nearest kinsmen and most intimate friends, you would be justified, I presume, in declaring such a will invalid.

Next remark, that, though they allege that Cleonymus asked for the magistrate to be summoned in order to confirm the bequest to themselves, yet, when they were ordered to do so, they dared not bring him in, and also sent away one of the magistrates who came to the door. Two alternatives lay before them, either to have the inheritance confirmed to them or else to offend Cleonymus by not doing what he asked ; they preferred to incur his enmity rather than to secure this bequest ! Could anything be more incredible than this ? Those who had so much to gain by doing what he asked, avoided rendering this service, as though they were going to lose by it, while Cleonymus showed so much zeal for their advantage that he was angry with Poseidippus for neglecting his wishes, and repeated the request to Diocles for the following day !

If, gentlemen, Cleonymus, as my opponents allege, bequeathed the estate to them by the will in its present form, I cannot help wondering by what alteration he thought he could make it more valid ; for in the eyes of every one else such a will is the most complete form of bequest. Furthermore, if he wished to add anything to these dispositions, why did he not record and leave behind him his wishes in a codicil, when he found himself unable to procure the original will from the officials ? For he could not annul any other document except that which was deposited at the magistrate's office ; but he was at

ἐξῆν εἰς ἕτερον εἴ τι ἐβούλετο, καὶ μηδὲ τοῦθ'  
 26 ἡμῖν ἀμφισβητήσιμον ἔαν. εἰ τοίνυν καὶ τοῦτο  
 συγχωρήσαιμεν, ὡς ἐκείνος ἐπανορθῶσαι τὰς δια-  
 θήκας ἐβούλετο, πᾶσι δῆπου φανερόν ὑμῖν<sup>1</sup> ἐστίν  
 ὅτι οὐκ ὀρθῶς αὐτὰς ἔχειν ἡγείτο. καίτοι σκοπεῖτε  
 καὶ ἐντεῦθεν τὴν ἀναισχυντίαν αὐτῶν, οὔτινες  
 ταύτας τὰς διαθήκας ἀξιοῦσιν εἶναι κυρίας, ἃς  
 ὁμολογοῦσι μηδ' αὐτὸν τὸν διαθέμενον [ταῦτα]  
 ὀρθῶς ἔχειν ἡγέισθαι, καὶ πείθουσιν ὑμᾶς ἐναντία  
 καὶ τοῖς νόμοις καὶ τῷ δικαίῳ καὶ τῇ τοῦ τετε-  
 27 λευτηκότος γνώμῃ ψηφίσασθαι. ἔτι τοίνυν τού-  
 των ἀπάντων ἀναιδέστατος τῶν λόγων ἐστίν, ὅταν  
 τολμῶσι λέγειν ὡς Κλεώνυμος οὐδὲν ἡμᾶς τῶν  
 αὐτοῦ λαβεῖν ἐβούλετο. καίτοι, ὦ ἄνδρες, τίνας ἂν  
 ἄλλους ταῦτα ἔχειν ἐβουλήθη μᾶλλον ἢ τούτους,  
 οὓς καὶ ζῶν ἐκ τῶν αὐτοῦ πλείστα τῶν οἰκείων  
 28 ὠφέλει; πάντων δ' ἂν εἷη θαυμασιώτατον, εἰ  
 Κηφίσανδρος μὲν ὁ τούτων οἰκείος δίκαιον ἡγείτο  
 εἶναι μέρος ἕκαστον ἡμῶν ἔχειν τῆς οὐσίας, Κλεώ-  
 νυμος δ' ὃς ἦν ἡμῖν οἰκειότατος<sup>2</sup> καὶ ἡμᾶς εἰς τὴν  
 οἰκίαν τὴν αὐτοῦ λαβὼν ἐθεράπευε καὶ ἐπεμελεῖτο  
 τῶν ἡμετέρων ὥσπερ τῶν αὐτοῦ πραγμάτων, οὗτος  
 μόνος ἐβούλετο ἡμᾶς ἀκλήρους εἶναι τῶν αὐτοῦ.  
 29 καὶ τίς ἂν ὑμῶν πιστεύσειεν εὐνουστέρους καὶ  
 μετριωτέρους τοὺς ἀντιδίκους ἡμῖν εἶναι τῶν  
 οἰκειοτάτων; καὶ ἐκείνον μὲν, ὦ καὶ ἀναγκαῖον εὔ-  
 ποιεῖν ἡμᾶς καὶ αἰσχυρὸν ἡμῶν ἀμελῆσαι, μηδὲν τῶν  
 αὐτοῦ ἡμῖν δοῦναι· τούτους δέ, οἷς οὐτ' ἀνάγκη  
 ἐστὶν οὐτ' αἰσχύνην οὐδεμίαν φέρει, τῶν οὐ προσ-  
 ηκόντων, ὥς φασιν, ἡμῖν μεταδιδόναι; ἀλλὰ ταῦτα  
 μὲν, ὦ ἄνδρες, πολλὴν ἀπιστίαν ἔχει.

<sup>1</sup> ὑμῖν Q: ἡμῖν.

<sup>2</sup> οἰκειότατος Bekker: οἰκειότερος.

liberty to record anything he liked in a codicil, and thus avoid leaving this matter in dispute between us. If we concede also that Cleonymus wished to alter his will, it is, I think, obvious to you all that he was dissatisfied with it. Here, again, mark the impudence of our opponents, who claim that the will should be valid, though they admit that even the testator himself was dissatisfied with it, and are trying to persuade you to give a verdict which is contrary to the laws and to justice and to the intentions of the deceased. Most impudent of all their statements is when they dare to say that Cleonymus did not wish us to have any of his property. Whom, gentlemen, could he have wished to have it rather than those to whom in his lifetime he gave more assistance out of his private means than to any other of his relatives? It would be most extraordinary if, while Cephisander, the kinsman of our opponents, thought it fair that each of us should have a share of the property, yet Cleonymus, who was our nearest relative and received us into his house and cared for us and looked after our interests as though they were his own, was the only person who wished that we should receive no share of his estate. Who of you could possibly believe that our opponents-at-law are kinder and more considerate towards us than our closest kindred; and that he, who was bound to treat us well and in whom it would have been disgraceful to neglect us, left us none of his property, whereas these men, who are under no obligation to us and whose disregard of us involves no disgrace, offered us a share of the property to which, as they say, we have no claim? These suppositions, gentlemen, are perfectly incredible.

- 30 Ἐπειτα, εἰ μὲν καὶ νῦν οὕτω πρὸς ἀμφοτέρους ἡμᾶς ἔχων ἐτελεύτησεν, ὥσπερ ὅτε τὰς διαθήκας ταύτας ἐποίησατο, εἰκότως ἂν τις ὑμῶν πιστεύσει<sup>1</sup> τοῖς λόγοις τοῖς τουτωνί· νυνὶ δὲ πᾶν τοῦναντίον εὐρήσετε. τότε μὲν γὰρ ἔτυχε Δεινία, ὃς ἡμᾶς ἐπετρόπευε, διάφορος ὢν ἡμῖν τε οὐπω<sup>2</sup> χρώμενος τούτοις τε ἅπασιν ἐπιτηδεύως διακείμενος· νῦν δὲ τούτων μὲν τισι διάφορος ἐγένετο,
- 31 ἡμῖν δὲ πάντων ἐχρήτο οἰκειότατα. καὶ ἐξ ὧν μὲν αὐτῷ πρὸς τούτους ἐγένετο ἡ διαφορά, περιεργόν ἐστι λέγειν· σημεία δ' ὑμῖν<sup>3</sup> ἐρῶ μεγάλα, περὶ ὧν καὶ μάρτυρας ἔξω παρασχέσθαι. πρῶτον μὲν γὰρ θύων τῷ Διονύσῳ, καὶ τοὺς οἰκείους ἅπαντας καλέσας καὶ τῶν ἄλλων πολιτῶν πολλούς, Φερένικον οὐδαμοῦ παρεστήσατο. ἔπειτα μικρὸν πρὶν τελευτῆσαι βαδίζων εἰς Πάνορμον μετὰ Σίμωνος, καὶ συντυχῶν αὐτῷ, προσειπεῖν οὐκ ἐτόλμησεν.
- 32 ἔτι δὲ πρὸς τούτοις πυνθανομένου τὴν διαφορὰν τοῦ Σίμωνος τὴν τ' ἔχθραν διηγῆσατο, καὶ προσηπίλυσεν ὅτι δηλώσει<sup>4</sup> ποτ' ἂν τούτῳ ὡς διακείται πρὸς αὐτόν. καὶ ὡς ἀληθῆ λέγω, κάλει μάρτυρας.

&lt;ΜΑΡΤΥΡΕΣ&gt;

- 33 Οἴεσθε οὖν, ὦ ἄνδρες, τὸν οὕτως πρὸς ἑκατέρους ἡμᾶς διακείμενον ἡμῖν μὲν, οἷς οἰκειότατα ἐχρήτο, οὕτω ποιεῖν ὅπως μηδὲ λόγον ὑπολείψει,<sup>5</sup>

<sup>1</sup> πιστεύσειε Scheibe: πιστεῦσαι.<sup>2</sup> οὐπω Mai: οὕτω.<sup>3</sup> ὑμῖν Q: ἡμῖν.<sup>4</sup> δηλώσειε Dobree: δηλώσει.<sup>5</sup> ὅπως μηδὲ λόγον ὑπολείψει Q: ὥστε μ. λ. ὑπολείψειν A: ὥστε μηδὲν ὁλῶς ὑπολείψειν Photiades.

## ON THE ESTATE OF CLEONYMUS, 30-33

Again, if Cleonymus had entertained the same feelings towards both parties at the time of his death as when he made the will, some of you might reasonably believe my opponents' story ; as it is, you will find that the exact contrary is true. *Then* he was at variance with Deinias, who was acting as our guardian, and was not yet on terms of close intimacy with us, and was kindly disposed towards all my opponents ; at the time of his death he had become at variance with some of them, and was living on terms of closer intimacy with us than with anyone else. On the causes of the quarrel between my opponents and Cleonymus it is unnecessary for me to dwell ; but I will mention some striking proofs of its existence, of which I shall be able also to produce witnesses. Firstly, when he was sacrificing to Dionysus, he invited all his relatives and many other citizens besides, but he offered no place to Pherenicus. Again, when, shortly before his death, he was journeying to Panormus<sup>a</sup> with Simon and met Pherenicus, he could not bring himself to speak to him. Furthermore, when Simon asked him about the quarrel, he narrated the circumstances of their enmity, and threatened that some day he would show Pherenicus what were his feelings towards him. Now call witnesses to prove the truth of these statements.

### WITNESSES

Do you imagine, gentlemen, that Cleonymus, being thus disposed towards both parties, acted thus towards us, with whom he lived on terms of the closest affection, in order to leave us without a word to say,

<sup>a</sup> A harbour on the south-east coast of Attica between Thoricus and Sunium.



- τούτοις δέ, ὧν τισι καὶ διάφορος ἦν, σκοπεῖν ὅπως ἅπασαν βεβαιώσει τὴν οὐσίαν; καὶ τούτους μὲν νῦν περὶ πλείονος ποιεῖσθαι ταύτης ὑπούσης τῆς ἔχθρας, ἡμᾶς δὲ τοσαύτης οἰκειότητος καὶ φιλίας
- 34 γενομένης πειρᾶσθαι μᾶλλον κακῶς ποιεῖν; ἀλλ' ἔγωγε, εἰ κατηγορεῖν ἐβούλοντο τῶν διαθηκῶν ἢ τοῦ τετελευτηκότος, οὐκ οἶδ' ὅ τι ἂν ἄλλο πρὸς ὑμᾶς εἶπον, οἳ γε τὰς διαθήκας μὲν ἀποφαίνουσιν οὐτ' ὀρθῶς ἐχούσας οὐτ' ἀρεσκούσας τῷ διαθεμένῳ, τοῦ δὲ τοσαύτην μανίαν κατηγοροῦσιν, ὥστε φασὶν αὐτὸν<sup>1</sup> περὶ πλείονος ποιεῖσθαι τοὺς αὐτῷ διαφερομένους ἢ τοὺς οἰκειῶς χρωμένους, καὶ οἷς μὲν ζῶν οὐδὲ<sup>2</sup> διελέγετο ἅπασαν δοῦναι τὴν οὐσίαν, τοὺς δ' οἰκειότατα κεχρημένους<sup>3</sup> οὐδὲ πολλοστοῦ μέρους ἀξιῶσαι. ὥστε τίς ἂν ὑμῶν ταύτας εἶναι
- 35 κυρίας τὰς διαθήκας ψηφίσαιτο, ἃς ὁ μὲν διαθέμενος ὡς οὐκ ὀρθῶς ἐχούσας ἀπεδοκίμασεν, οὔτοι δ' ἔργῳ λύουσιν ἐθέλοντες ἡμῖν ἰσομοιρῆσαι τῆς οὐσίας, πρὸς δὲ τούτοις ἡμεῖς ὑμῖν ἀποφαίνομεν ἐναντίας οὔσας καὶ τῷ νόμῳ καὶ τοῖς δικαίοις καὶ τῇ τοῦ τετελευτηκότος διανοίᾳ;
- 36 Οἶμαι δ' ὑμᾶς τὸ περὶ ἡμῶν δίκαιον σαφέστατ' ἂν παρ' αὐτῶν τούτων πυνθάνεσθαι. εἰ γάρ τις αὐτοὺς ἔροιτο διὰ τί ἀξιοῦσι κληρονόμοι γενέσθαι τῶν Κλεωνύμου, τοῦτ' ἂν εἰπεῖν ἔχοιεν, ὅτι καὶ γένει ποθὲν προσήκουσι καὶ ἐκεῖνος αὐτοῖς χρόνον τινὰ ἐπιτηδείως διέκειτο. οὐκ ἂν<sup>4</sup> ἄρα ὑπὲρ ἡμῶν
- 37 μᾶλλον ἢ ὑπὲρ σφῶν αὐτῶν εἶεν εἰρηκότες; εἰ τε

<sup>1</sup> αὐτὸν Q: αὐτῷ.

<sup>2</sup> οὐδὲ Cobet: οὐ.

<sup>3</sup> οἰκειότατα κεχρημένους Bekker: οἰκειότητα κεκτημένους.

<sup>4</sup> οὐκ ἂν Mai: οὐκοῦν.



while he sought means to confirm the bequest of his whole property to my opponents, with some of whom he was at variance ? And that, although this enmity subsisted, he thought more highly of them, and, in spite of the intimacy and affection which had sprung up between us, tried rather to injure us ? For my part, if they wished to attack the will and the deceased, I do not know what else they could have said to you, since they represent the will as incorrect and disapproved by the testator, and accuse him of being so insane that, according to them, he set more store by those who were at variance with him than by those with whom he was living on terms of the closest affection, and left all his property to those with whom in his lifetime he was not on speaking terms, while he did not consider those, whom he had treated as his closest friends, as worthy of the smallest share of his estate. Who of you, then, could vote for the validity of this will, which the testator rejected as being incorrect, and which our opponents are actually ready to set aside, since they expressed their willingness to share the estate with us, and which, moreover, we can show to be contrary both to law and to justice and to the intention of the deceased ?

You can best learn, I think, the justice of our plea from the statements of our opponents themselves. If they were asked on what grounds they claimed to inherit the property of Cleonymus, they might reply that they are somehow related to him, and that for some time he was on terms of friendship with them. Would not this statement tell in our favour rather than in theirs ? For if the right of

- γὰρ διὰ τὴν τοῦ γένους ἀγχιστείαν δεῖ γενέσθαι  
τινὰς κληρονόμους, ἡμεῖς ἐγγυτέρω γένει προσ-  
ήκομεν· εἴ τε διὰ τὴν φιλίαν τὴν ὑπάρχουσαν,  
ἴσασιν αὐτὸν ἅπαντες ἡμῖν οἰκειότερον διακεί-  
μενον. ὥστ' οὐ χρή παρ' ἡμῶν, ἀλλὰ [καὶ] παρ'  
38 αὐτῶν τούτων πυνθάνεσθαι τὸ δίκαιον. πάντων δ'  
ἂν εἴη δεινότατον, εἰ τοῖς μὲν ἄλλοις ψηφίζοισθε,  
ὅταν θάτερα<sup>1</sup> τούτων ἀποφαίνωσι σφᾶς αὐτούς, ἢ  
γένει προτέρους ὄντας ἢ τῇ φιλίᾳ τῇ πρὸς τὸν  
τετελευτηκότα, ἡμᾶς δ' οἷς ἐστὶν ἀμφοτέρα ταῦτα  
παρὰ πάντων ὁμολογούμενα, ἀξιώσετε μόνους  
ἀκλήρους ποιῆσαι τῶν ἐκείνου.
- 39 Καὶ εἰ μὲν Πολύαρχος<sup>2</sup> ὁ πατήρ ὁ Κλεωνύμου,  
πάππος δ' ἡμέτερος, ζῶν ἐτύγχανε καὶ τῶν ἐπιτη-  
δείων ἐνδεὴς ὢν, ἢ Κλεώνυμος ἐτελεύτησε θυγατέ-  
ρας ἀπορουμένας καταλιπών, ἡμεῖς ἂν διὰ τὴν ἀγ-  
χιστείαν καὶ τὸν πάππον γηροτροφεῖν ἠναγκαζό-  
μεθα καὶ τὰς Κλεωνύμου θυγατέρας ἢ λαβεῖν αὐτοὶ  
γυναικας ἢ προῖκα ἐπιδιδόντες ἑτέροις ἐκδιδόναι,  
καὶ ταῦθ' ἡμᾶς καὶ ἡ συγγένεια καὶ οἱ νόμοι καὶ  
ἡ παρ' ὑμῶν αἰσχὺνὴ ποιεῖν ἠνάγκαζεν ἂν, ἢ ταῖς  
μεγίσταις ζημίαις καὶ τοῖς ἐσχάτοις ὀνείδεσι περι-  
40 πεσεῖν· εἰ δ' οὐσία κατελείφθη, δίκαιον ἡγήσεσθ'  
εἶναι ταύτης ἑτέρους ἡμῶν μᾶλλον κληρονομεῖν;  
οὐκ ἄρα δίκαια οὐδ' ὑμῖν αὐτοῖς συμφέροντα οὐδὲ  
τοῖς νόμοις ὁμολογούμενα ψηφιεῖσθε, εἰ τῶν μὲν  
συμφωρῶν τοὺς ἐγγυτάτῳ γένει κοινωνεῖν ἀναγ-  
κάσετε, χρημάτων δὲ καταλειφθέντων πάντας  
ἀνθρώπους κυριωτέρους ἢ τούτους ποιήσετε.
- 41 Χρὴ δέ, ὦ ἄνδρες, καὶ διὰ τὴν συγγένειαν καὶ  
διὰ τὴν τοῦ πράγματος ἀλήθειαν, ὅπερ ποιεῖτε,

<sup>1</sup> θάτερα Mai: θάττερα.

<sup>2</sup> Πολύαρχος Mai: ναύαρχος.

succession is based on affinity, we are more closely related to him; if it is to be based on existing friendship, it is common knowledge that it was to us that he was more closely bound by affection. Thus it is from their lips rather than from ours that you must learn the justice of the case. Now it would be very strange if in all other cases you were to vote in favour of those who prove themselves nearer either in kinship or in friendship to the deceased, but decide that we, who are admitted to possess both these qualifications, alone are to be deprived of all share in his property.

If Polyarchus, the father of Cleonymus and our grandfather, were alive and lacked the necessities of life, or if Cleonymus had died leaving daughters unprovided for, we should have been obliged on grounds of affinity to support our grandfather, and either ourselves marry Cleonymus's daughters or else provide dowries and find other husbands for them—the claims of kinship, the laws, and public opinion in Athens would have forced us to do this or else become liable to heavy punishment and extreme disgrace—but now that property has been left, will you regard it as just that others, rather than we, should inherit it? Your verdict, then, will not be just or in your own interest or in harmony with the law, if you are going to force those who are next of kin to share in the misfortunes of their relatives, but, when money has been left, give anyone rather than them the right to its possession.

It is only right, gentlemen, that you should—as indeed you do—give your verdicts on grounds of

- τοῖς κατὰ γένος ψηφίζεσθαι μᾶλλον ἢ τοῖς κατὰ διαθήκην ἀμφισβητοῦσι. τὴν μὲν γὰρ τοῦ γένους οἰκειότητα πάντες ἐπιστάμενοι τυγχάνετε, καὶ οὐχ οἷόν τε τοῦτ' ἔστι πρὸς ὑμᾶς ψεύσασθαι· διαθήκας δ' ἤδη πολλοὶ ψευδεῖς ἀπέφηναν, καὶ οἱ μὲν τὸ παράπαν οὐ γενομένας, ἐνίων δ' οὐκ ὀρθῶς βεβου-  
42 λευμένων. καὶ νῦν ὑμεῖς<sup>1</sup> τὴν μὲν συγγένειαν καὶ τὴν οἰκειότητα τὴν ἡμετέραν, οἷς ἡμεῖς ἀγωνιζόμεθα, ἅπαντες ἐπίστασθε· τὰς δὲ διαθήκας, αἷς οὗτοι πιστεύοντες ἡμᾶς συκοφαντοῦσιν, οὐδεὶς ὑμῶν οἶδε κυρίας γενομένας. ἔπειτα τὴν μὲν ἡμετέραν συγγένειαν εὐρήσετε καὶ παρ' αὐτῶν τῶν ἀντιδίκων ὁμολογουμένην, τὰς δὲ διαθήκας ὑφ' ἡμῶν ἀμφισβητουμένας· οὗτοι γὰρ τὸ ἀνελεῖν  
43 αὐτὰς ἐκείνου βουλομένου διεκώλυσαν. ὥσθ' ὑμῖν,<sup>2</sup> ὦ ἄνδρες, πολὺ κάλλιον ἔστι ψηφίσασθαι κατὰ τὸ γένος τὸ παρ' ἀμφοτέρων ἡμῶν ὁμολογούμενον μᾶλλον ἢ κατὰ τὰς διαθήκας τὰς οὐ δικαίως γεγενημένας. πρὸς δὲ τούτοις ἐνθυμήθητε ὅτι αὐτὰς ἔλυσε μὲν Κλεώνυμος εὖ φρονῶν, διέθετο δὲ ὀργισθεῖς καὶ οὐκ ὀρθῶς βουλευόμενος· ὥστε πάντων ἂν εἴη δεινότατον, εἰ κυριωτέραν αὐτοῦ τὴν ὀργὴν ἢ τὴν διάνοιαν ποιήσετε.
- 44 Οἶμαι δ' ὑμᾶς καὶ λαμβάνειν παρὰ τούτων ἀξιούν καὶ μὴ τυγχάνοντας ἀγανακτεῖν, οἷς ἂν ὑπάρχη καὶ παρ' ὑμῶν τῶν αὐτῶν τυχεῖν. εἰ τοίνυν συνέβη Κλεωνύμῳ μὲν ζῆν, ἐξερημωθῆναι δὲ τὸν ἡμέτερον οἶκον ἢ τὸν τούτων, σκέψασθε ποτέρων<sup>3</sup> ἐκεῖνος ἐγίγνετο κληρονόμος· δίκαιον γάρ ἐστι τούτους ἔχειν τὰ ἐκείνου, παρ' ὧν ὠφείλετο καὶ λαβεῖν

<sup>1</sup> ὑμεῖς Mai: ἡμεῖς.

<sup>2</sup> ὑμῖν Mai: ἡμῖν.

<sup>3</sup> ποτέρων Mai: πότερον.

affinity and the true facts of the case in favour of those who claim by right of kinship rather than of those who rely on a will. For you all know what a family relationship is, and it is impossible to misrepresent it to you ; on the other hand, false wills have often to be produced—sometimes complete forgeries, sometimes executed under a misapprehension. In the present case you are all aware of our kinship and close relations with the deceased, which are the basis of our claim ; but none of you has any knowledge that the will was valid, in reliance upon which our opponents are scheming against us. Further, you will find that our relationship to the deceased is admitted even by our adversaries, whereas the will is contested by us, for they prevented him from annulling it when he wished to do so. So, gentlemen, it is much better that you should give your verdict on the ground of our affinity, which is admitted by both sides, rather than in accordance with the will which was not properly drawn up. Remember also that Cleonymus made the will in a misguided moment of passion, but was in his right mind when he revoked it ; it would, therefore, be an extraordinary proceeding to let his momentary passion prevail rather than his reasoned intention.

I think that you yourselves consider it your right to inherit—and feel a grievance if you do not do so—from those who have a claim to inherit from you. Supposing, therefore, that Cleonymus were alive, and that our family or that of our opponents had become extinct, consider to which family Cleonymus had the prospect of becoming heir ; for it is only fair that those should possess his property from whom

- 45 αὐτῷ. εἰ μὲν τοίνυν Φερένικος ἢ τῶν ἀδελφῶν τις ἐτελεύτησεν, οἱ παῖδες οἱ τούτων, οὐκ ἐκείνος ἐγίγνετο κύριος τῶν καταλειφθέντων· ἡμῶν δὲ τοιαύτῃ τύχῃ χρησαμένων Κλεώνυμος ἀπάντων ἐγίγνετο κληρονόμος. οὔτε γὰρ παῖδες ἡμῖν ἦσαν οὔτ' ἄλλοι συγγενεῖς, ἀλλ' ἐκείνος καὶ γένει προσήκων ἐγγυτάτῳ καὶ τῇ χρεῖα πάντων ἦν οἰκειό-  
 46 τατος· ὥστε διὰ ταῦτα καὶ οἱ νόμοι δεδώκασιν αὐτῷ, καὶ ἡμεῖς οὐδέν' <ἂν><sup>1</sup> ἄλλον ἡξιώσαμεν ταύτης τῆς δωρεᾶς. οὐ γὰρ δήπου ζῶντες μὲν οὕτως ἂν ἐνεχειρίσαμεν αὐτῷ τὴν οὐσίαν, ὥστε περὶ τῶν ἡμετέρων κυριωτέραν εἶναι τὴν ἐκείνου διάνοιαν τῆς ἡμετέρας αὐτῶν, ἀποθνήσκοντες δὲ ἄλλους κληρονόμους ἐβουλήθημεν <εἶναι> αὐτῶν  
 47 μᾶλλον ἢ τὸν πάντων οἰκειότατον. ὥσθ' ἡμᾶς μὲν ἐν ἀμφοτέροις, ὧ ἄνδρες,<sup>2</sup> καὶ ἐν τῷ δοῦναι καὶ ἐν τῷ λαβεῖν οἰκείους ὄντας εὐρήσετε, τούτους δὲ νῦν μὲν ἀναισχυνοῦντας καὶ τὴν οἰκειότητα καὶ τὴν ἀγχιστείαν λέγοντας, ὅτι λήψεσθαι τι προσδοκῶσιν· ἐν δὲ τῷ δοῦναι πολλοὺς ἂν καὶ συγγενεῖς καὶ φίλους ἐκείνου προείλοντο οἰκειότερους.  
 48 Κεφάλαιον δὲ τῶν εἰρημένων, ὧ πάντας ὑμᾶς προσέχειν δεῖ τὸν νοῦν· <ἐν> ὅσῳ<sup>3</sup> γὰρ ἂν ταῦτα λέγοντες ἀποφαίνωσι καὶ πειρῶνται πείθειν ὑμᾶς ὥς ἐκείνος διέθετο ταύτας τὰς διαθήκας καὶ οὐδὲ πώποτε ὕστερον αὐτῷ μετεμέλησε, <ἀλλὰ><sup>4</sup> καὶ νῦν ἐβούλετο ἡμᾶς μὲν<sup>5</sup> μηδὲν τῶν αὐτοῦ λαβεῖν,  
 49 σφίσι δ' αὐτοῖς βεβαιῶσαι τὴν δωρεάν, καὶ ταῦτα πάντα λέγοντες καὶ δισχυρίζομενοι μηδέτερον

<sup>1</sup> οὐδέν' <ἂν> Bekker: οὐδένα.

<sup>2</sup> ἄνδρες Baiter-Sauppe: Ἀθηναῖοι.

<sup>3</sup> <ἐν> ὅσῳ Dobree.

<sup>4</sup> ἀλλὰ add. Blass.

<sup>5</sup> νῦν ἐβούλετο ἡμᾶς μὲν Q: νῦν μὲν ἐβ. ἡμᾶς.

he had a right to inherit. If Pherenicus or one of his brothers had died, their children, and not Cleonymus, had the prospect of becoming entitled to the property which they left behind. If, on the other hand, such a fate had befallen us, Cleonymus had the prospect of becoming heir to everything; for we had no children or other relatives, but he was a next-of-kin and most closely bound to us by ties of affection; for which reasons the laws have given him the right of succession, and we should never have thought of making this bequest to anyone else. For we should never, I imagine, have in our lifetime placed our property in his hands in such a way that his wishes prevailed over our own in the matter of what belonged to us, and yet, at our death, have wished others to inherit it rather than our closest friend. Thus, gentlemen, you will find us bound to Cleonymus by the double tie of mutual bequest and inheritance, while you will find my opponents acting impudently and talking of close connexion and affinity, because they expect to profit thereby. If it were a question of giving anything away, there are many kinsmen and friends whom they would have preferred as nearer and dearer than him.

I will now sum up what I have said, and I beg the close attention of you all. As long as my opponents try by these arguments to prove and attempt to persuade you that this will represents Cleonymus's intentions, and that he never subsequently regretted having made it, but still wished us to receive none of his estate and to confirm the bequest to them—yet, while stating and insisting on all these points,



ἀποφαίνωσι<sup>1</sup> μήθ',<sup>2</sup> ὡς ἐγγυτέρω τῷ γένει προσ-  
 ἤκουσι μήθ' ὡς οἰκειότερον ἡμῶν πρὸς Κλεώνυ-  
 μον διέκειντο, ὑμεῖς ἐνθυμεῖσθε ὅτι ἐκείνου κατ-  
 ηγοροῦσιν, ἀλλ' οὐχ ὡς δίκαιόν ἐστι τὸ πρᾶγμα  
 50 διδάσκουσιν ὑμᾶς. ὥσθ' ὑμεῖς ὅταν μὲν τοῖς τού-  
 των λόγοις πιστεύητε, οὐ τούτους προσήκει ποιῆ-  
 σαι τῶν ἐκείνου κληρονόμους, ἀλλὰ παράνοϊαν  
 Κλεωνύμου καταγιγνώσκειν, ὅταν δὲ τοῖς ἡμετέ-  
 ροις, ἐκείνόν τε νομίζειν ὀρθῶς βεβουλευσθαι λῦσαι  
 τὰς διαθήκας βουλόμενον, ἡμᾶς τε μὴ συκοφαν-  
 51 τεῖν ἀλλὰ δικαίως τούτων ἀμφισβητεῖν. ἔπειτα, ὦ  
 ἄνδρες, ἐνθυμεῖσθε ὅτι οὐχ οἷόν τε ὑμῖν<sup>3</sup> ἐστι κατὰ  
 τοὺς τούτων λόγους γνῶναι περὶ αὐτῶν. πάντων  
 γὰρ ἂν εἴη δεινότατον, εἰ τῶν ἀντιδίκων γιγνω-  
 σκόντων ἡμᾶς δίκαιον εἶναι τὸ μέρος αὐτῶν  
 λαβεῖν, ὑμεῖς ἅπαντ' αὐτοὺς ἔχειν ψηφιεῖσθε,<sup>4</sup>  
 καὶ τούτους μὲν ἡγήσεσθε χρῆναι πλείω λαβεῖν ὧν  
 αὐτοὶ σφᾶς αὐτοὺς ἡξίωσαν, ἡμᾶς δὲ μηδὲ τού-  
 των ἀξιώσετε ὧν ἀντίδικοι συγχωροῦσιν ἡμῖν.

<sup>1</sup> ἀποφαίνωσι Schoemann: ἀποφῆνωσι.

<sup>2</sup> μήθ' Bekker: μηδ'. <sup>3</sup> ὑμῖν Mai: ἡμῖν.

<sup>4</sup> ψηφιεῖσθε Thalheim: ψηφίσεσθε.



## ON THE ESTATE OF CLEONYMUS, 49-51

they never really prove either that they are nearer of kin to Cleonymus or that they were on terms of closer intimacy with him than we were—remember that they are merely accusing him and are not demonstrating to you the justice of their cause. If, therefore, you believe what they say, you ought not to declare them heirs to Cleonymus's estate but to pronounce Cleonymus insane. If, on the other hand, you believe what we say, you must consider that Cleonymus exercised his proper judgement when he wished to revoke the will, and that we are not bringing a vexatious suit but are making a just claim to the inheritance. Lastly, gentlemen, remember that it is impossible for you to decide the matter on the basis of their arguments; for it would be extraordinary, when our adversaries decide that we are entitled in justice to part of the estate, if your verdict is to give them the whole of it, and if you shall hold that they ought to receive more than the amount to which they considered themselves entitled, while you do not award us even as much as our adversaries conceded.

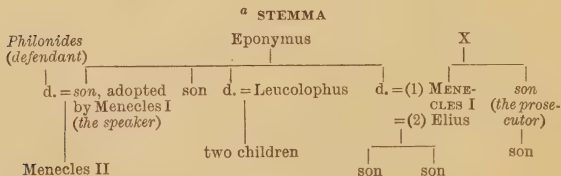


## II. ON THE ESTATE OF MENECLÉS

## INTRODUCTION

MENECLÉS<sup>a</sup> had married as his second wife the young daughter of a friend of his, Eponymus. After a short period, during which she bore him no children, he separated from her on friendly terms and she married a certain Elius. Menecles, having no children by either wife, followed the common custom of adopting a son, so that his family should not die out, and chose for this purpose the brother of his second wife. On his death, twenty-three years after the date of the adoption, his own brother, as next-of-kin, challenged the legality of the adoption under a law of Solon, on the ground that it had been made "under the influence of a woman," namely, Menecles' second wife, the sister of the adopted son, and claimed the estate.

A legitimate son, or a son adopted during the lifetime of the person who adopted him, enjoyed by law the right of entering into his inheritance without any application to the court such as had



## ON THE ESTATE OF MENECLÉS

to be made by testamentary and collateral heirs. If a claim was put forward by any other person who contested the son's, or the adopted son's, right to inherit and made application to the archon, this claim could be met by a special form of protestation (*διαμαρτυρία*) to the effect that the estate was not subject to adjudication (*ἐπίδικος*), because there was a direct heir to inherit it. In the present case the adopted son put in a protestation, supported by the evidence of his father-in-law, Philonides. The burden of proving that the adopted son's claim was invalid thus fell upon the claimant, the brother of the deceased, whose action took the form of a prosecution of the witness, Philonides, for perjury. It is on his behalf that the adopted son made the present speech. Thus, while nominally the speaker is defending his father-in-law on a charge of perjury, he is actually pleading his own right to inherit, since the result of the acquittal of the witness would be that his claim as heir would be vindicated, whereas, if the witness were convicted, he would be forced to abandon his claim to the estate.

The prosecutor had based his case on the contention that the adoption had been due to the influence of the sister of the speaker, and seems to have urged that she had brought no dowry with her, and that, therefore, the presumption was that Meneclés had never legally married her. Against this contention the speaker brings evidence that a dowry of twenty minae had been paid, and he paints a touching picture of the parting between Meneclés and his young wife, whom he put away out of pity because she had no children by him. If there had been any undue influence, surely, he contends, it

## ISAEUS

would have been exercised in favour of her children by her second husband and not in favour of her brother. The truth, he says, is that Menecles, in his childless and lonely condition, desired to adopt a son, and naturally turned to the family of his old friend, Eponymus, with which he had been connected by marriage. He shows that after his adoption he had acted as a dutiful son to Menecles and had performed all the due rites over him after his death. His only object now is, he says, to vindicate the memory of his adopted father, since from a pecuniary point of view the inheritance is practically worthless owing to the machinations of the prosecutor, who had, during Menecles' lifetime, managed to defraud him of the greater part of his property.

The exact facts on this point are somewhat obscure, but it appears that Menecles had been appointed trustee of the property left by a certain Nicias to his orphan children, and had given, as guarantee for his guardianship, a mortgage on certain land which he held jointly with his brother. When the elder of the orphans came of age, Menecles was called upon to restore to him the capital and interest, for which purpose he was obliged to sell his land. His brother opposed the sale, and Menecles was forced to reserve the portion which he claimed, selling the remainder and paying the money due to the orphans. Menecles subsequently brought an action against his brother for restraint of sale, which was heard before arbitrators, who being, as the speaker alleges, friends of the brother, gave a verdict in his favour to the detriment of the estate. The speech concludes with a contrast between the

## ON THE ESTATE OF MENECLÉS

rapacity of the prosecutor and the dutiful conduct of the adopted son.

The date of the speech can be approximately fixed by the allusion to the absence of the speaker on military service in Thrace under Iphicrates. It seems probable, from the phrase used in § 6 (*ἀπεδημήσαμεν μετὰ Ἰφικράτους εἰς Θράκην*), that the reference is not to the official Athenian expedition to the Chersonese and Hellespont about 388 B.C., but to a later private expedition, undertaken by Iphicrates about 383 B.C. with a mercenary force on behalf of the Thracian prince Cotys, whose daughter he married. The speaker seems to have been absent for some little time on this expedition, since two children were born to his elder sister during his absence (§ 7). A further period elapsed before the adoption took place (§ 10), so that we must probably allow for a period of about five years between the departure of the speaker to Thrace and the date of his adoption. A further period of twenty-three years elapsed before the death of Meneclés, so that the date of the speech would seem to fall about the year 355 B.C.

## II. ΠΕΡΙ ΤΟΥ ΜΕΝΕΚΛΕΟΥΣ ΚΛΗΡΟΥ

### ΥΠΟΘΕΣΙΣ

Μενεκλέους ποιησαμένου υἱὸν καὶ ἐπιβιώσαντος τῇ ποιήσει εἴκοσι τρία ἔτη, ἀδελφῶν ἀμφισβητησάντων τοῦ κλήρου ἐμαρτύρησέ τις Φιλωνίδης μὴ εἶναι τὸν κλῆρον ἐπίδικον, καταλείψαντος υἱὸν Μενεκλέους. τούτῳ ἐπέσκηψαν ψευδομαρτυρίας οἱ ἀδελφοί, καὶ πρὸς τούτους ὁ παῖς ὑπὲρ αὐτοῦ τὴν ἀπολογίαν εἰσέρχεται. ἔστι δὲ ὁ λόγος οὗτος ἐναντίος τῷ περὶ τοῦ Κλεωνύμου κλήρου· ἐκεῖ μὲν γὰρ ὑπὲρ συγγενείας εἶπεν, ὧδε δὲ ὑπὲρ διαθήκης. ἡ στάσις ἀντίληψις κατὰ στοχασμόν· λέγει γὰρ ὅτι ἐξῆν αὐτῷ ποιεῖν ἑαυτῷ υἱόν. εἶτα τὸ στοχαστικόν, ὅτι οὐ πεισθεὶς γυναικὶ ἐποίησατό με.

- 1 Ἐγούμην μὲν, ὦ ἄνδρες, εἴ τις καὶ ἄλλος ἐποιήθη ὑπὸ τινος κατὰ τοὺς νόμους, καὶ ἐγὼ ποιηθῆναι, καὶ οὐκ ἂν ποτε εἰπεῖν οὐδένα τολμῆσαι ὥς ἐποίησατό με Μενεκλῆς παρανοῶν ἢ γυναικὶ πειθόμενος· ἐπειδὴ δὲ ὁ θεὸς οὐκ ὀρθῶς βουλευόμενος, ὥς ἐγὼ φημι, πειράται ἐξ ἅπαντος τρόπου τὸν ἀδελφὸν τὸν αὐτοῦ ἄπαιδα τεθνεῶτα καταστήσαι, οὔτε τοὺς θεοὺς τοὺς πατρώους οὔθ' ὑμῶν αἰσχυρόμενος οὐδένα, ἐμοὶ ἀνάγκη ἐστὶ πολλὴ βοηθεῖν τῷ τε<sup>1</sup> πατρὶ τῷ ποιησαμένῳ με

<sup>1</sup> τῷ τε Bremi : τε τῷ.



## II. ON THE ESTATE OF MENECLÉS

### ARGUMENT

Meneclés adopted a son and lived for twenty-three years after the date of the adoption. When his brothers <sup>a</sup> claimed his estate, a certain Philonides attested that the estate was not adjudicable, because Meneclés had left a son. The brothers then brought an action for perjury against Philonides, and it is against them that the son undertakes the defence of Philonides. The speech, which is in defence of a will, is the counterpart of that delivered "On the Estate of Cleonymus," <sup>b</sup> which upholds the rights of kindred. The discussion concerns a point of law with a controversy on a point of fact; for the speaker affirms that the deceased had the right to adopt a son, and then deals with the point of fact, saying, "It was not under the influence of a woman that he adopted me."

I think, gentlemen, that, if any adoption was ever made in accordance with the laws, mine was, and no one could ever dare to say that Meneclés adopted me in a moment of insanity or under the influence of a woman. But since my uncle, acting, as I assert, under a misapprehension, is trying by every means in his power to deprive his dead brother of descendants, showing no respect for the gods of his family or for any of you, I feel constrained to come to the aid of the father who adopted me, and

<sup>a</sup> This is incorrect; there was only one brother, whose son was also apparently associated with him in the case.

<sup>b</sup> Oration i.

2 καὶ ἔμαντῶ. διδάξω<sup>1</sup> οὖν ὑμᾶς ἐξ ἀρχῆς ὡς  
προσηκόντως τε καὶ κατὰ τοὺς νόμους ἐγένετο ἡ  
ποίησις, καὶ οὐκ ἔστιν ἐπίδικος ὁ κληῖρος ὁ Μενε-  
κλέους ὄντος ἐμοῦ ὑοῦ ἐκείνου, ἀλλ' ὁ μάρτυς  
διεμαρτύρησε τάληθῃ. δέομαι δ' ὑμῶν ἀπάντων  
καὶ ἀντιβολῶ καὶ ἰκετεύω μετ' εὐνοίας ἀποδέχεσθαι  
μου τοὺς λόγους.

3 Ἐπώνυμος γὰρ ὁ Ἀχαρνεύς, ὁ πατὴρ ὁ ἡμέ-  
τερος, ὦ ἄνδρες, φίλος ἦν καὶ ἐπιτήδειος Μενεκλεί,  
καὶ ἐχρήτο οἰκείως<sup>2</sup>. ἡμεν δὲ αὐτῷ παῖδες τέτταρες  
ἡμεῖς, δύο μὲν υἱεῖς, δύο δὲ θυγατέρες. τελευ-  
τήσαντος δὲ τοῦ πατρὸς ἐκδίδομεν ἡμεῖς τὴν  
πρεσβυτέραν ἀδελφὴν, ἐπειδὴ εἶχεν ὥραν, Λευκο-  
4 λόφῳ, προῖκα ἐπιδόντες εἴκοσι μνᾶς. καὶ ἀπ'  
ἐκείνου τοῦ χρόνου τετάρτῳ ἔτει ἢ πέμπτῳ<sup>3</sup>  
ὑστερον ἢ τε ἀδελφῇ ἡμῖν ἢ νεωτέρα σχεδὸν  
ἡλικίαν εἶχεν ἀνδρὶ συνοικεῖν, καὶ τῷ Μενεκλεί  
ἢ γυνὴ τελευτᾷ ἦν εἶχε πρότερον. ἐπειδὴ οὖν  
ἐκείνη τὰ νομιζόμενα ἐποίησεν ὁ Μενεκλῆς, ἥτει  
τὴν ἀδελφὴν ἡμᾶς, ὑπομιμνήσκων τὴν τε φιλίαν  
τὴν τοῦ πατρὸς καὶ ἑαυτοῦ, καὶ ὡς πρὸς ἡμᾶς  
5 αὐτοὺς<sup>4</sup> ἦν διακείμενος· καὶ ἡμεῖς εἰδότες ὅτι καὶ  
ὁ πατὴρ οὐδενὶ ἂν ἔδωκεν ἥδιον ἢ ἐκείνῳ, δίδομεν  
αὐτῷ, οὐκ ἄπροιον, ὡς οὗτος λέγει ἐκάστοτε,  
ἀλλὰ τὴν ἴσῃν προῖκα ἐπιδόντες ἦνπερ καὶ τῇ  
πρεσβυτέρᾳ ἀδελφῇ ἐπέδομεν· καὶ ἐκ τοῦ τρόπου  
τούτου, πρότερον ὄντες αὐτοῦ φίλοι, κατέστημεν  
οἰκεῖοι. καὶ ὡς ἔλαβεν εἴκοσι μνᾶς ὁ Μενεκλῆς  
ἐπὶ τῇ ἀδελφῇ προῖκα, τὴν μαρτυρίαν ταύτην  
πρῶτον βούλομαι παρασχέσθαι.

<sup>1</sup> διδάξω Bekker : διδάσκω.

<sup>2</sup> οἰκείως Bekker : οἰκείω.

<sup>3</sup> ἢ πέμπτῳ add. Q.

<sup>4</sup> αὐτοὺς Sauppe : αὐτὸς.

## ON THE ESTATE OF MENECLÉS, 2-5

to my own aid. I intend, therefore, first to show you that my adoption was appropriate and legal, and that there is no question of adjudicating the estate of Menecles, since he had a son, namely, myself, and that the evidence of the witness was true. I beg and entreat and beseech you all to listen with favour to what I have to say.

My father, gentlemen, Eponymus of Acharnae,<sup>a</sup> was a friend and close acquaintance of Menecles and lived on terms of intimacy with him; there were four of us children, two sons and two daughters. After my father's death we married our elder sister, when she reached a suitable age, to Leucolophus, giving her a dowry of twenty minae. Four or five years later, when our younger sister was almost of marriageable age, Menecles lost his first wife. When he had carried out the customary rites over her, he asked for our sister in marriage, reminding us of the friendship which had existed between our father and himself and of his friendly disposition towards ourselves. Knowing that our father would have given her to no one with greater pleasure, we gave her to him in marriage—not dowerless, as my opponent asserts on every possible occasion, but with the same portion as we gave to our elder sister. In this manner, having been formerly his friends, we became his kinsmen. I should like first to produce evidence that Menecles received a dowry of twenty minae with my sister.

<sup>a</sup> A deme of Attica about seven miles north of Athens.

- 6 Ἐκδόντες τοίνυν τὰς ἀδελφάς, ὧ ἄνδρες, καὶ ὄντες αὐτοὶ ἐν ἡλικίᾳ ἐπὶ τὸ στρατεύεσθαι ἐτραπόμεθα, καὶ ἀπεδημήσαμεν μετὰ Ἴφικράτους εἰς Θράκην· ἐκεῖ δὲ δόξαντές του<sup>1</sup> εἶναι ἄξιοι περιποιησάμενοί τι κατεπλεύσαμεν δεῦρο, καὶ καταλαμβάνομεν τῇ πρεσβυτέρᾳ ἀδελφῇ ὄντα δύο παιδιά, τὴν δὲ νεωτέραν, ἣν εἶχε Μενεκλῆς,
- 7 ἄπαιδα. καὶ ἐκείνος δευτέρῳ μηνὶ ἢ τρίτῳ, πολλὰ ἐπαινέσας τὴν ἀδελφήν, λόγους ἐποιεῖτο πρὸς ἡμᾶς, καὶ ἔφη τὴν τε ἡλικίαν ὑφορᾶσθαι τὴν ἑαυτοῦ καὶ τὴν ἀπαιδίαν· οὐκ οὖν ἔφη δεῖν ἐκείνην τῆς χρηστότητος τῆς ἑαυτῆς τοῦτο ἀπολαῦσαι, ἄπαιδα καταστῆναι συγκαταγηράσασαν αὐτῷ.
- 8 ἱκανὸς γὰρ ἔφη αὐτὸς ἀτυχῶν εἶναι. [καὶ ἐκ ταύτης τῆς λέξεως δῆλον ὅτι φιλῶν ἀπεβάλετο· οὐδεὶς γὰρ μισῶν τινα ἱκετεύει αὐτῷ.] ἐδεῖτο οὖν ἡμῶν δοῦναι χάριν ταύτην αὐτῷ, ἐκδοῦναι ἄλλω αὐτὴν μετὰ τῆς γνώμης τῆς ἑαυτοῦ. καὶ ἡμεῖς ἐκελεύομεν αὐτὸν πείθειν αὐτὴν περὶ τούτων· ὅτι γὰρ <ἂν><sup>2</sup> ἐκείνη πεισθῇ, τοῦτ' ἔφαμεν ποιήσιν.
- 9 καὶ ἐκείνη τὸ μὲν πρῶτον οὐδ' ἠνέσχετ' αὐτοῦ λέγοντος, προϊόντος δὲ τοῦ χρόνου μόλις ἐπείσθη· καὶ οὕτως ἐκδίδομεν αὐτὴν Ἡλείῳ Σφηττίῳ, καὶ ὁ Μενεκλῆς τὴν τε προῖκα ἐπιδίδωσιν αὐτῷ, μετασχὼν τοῦ οἴκου τῆς μισθώσεως τῶν παίδων τῶν<sup>3</sup> Νικίου, καὶ τὰ ἱμάτια, ἃ ἦλθεν ἔχουσα παρ' ἐκείνον, καὶ τὰ χρυσίδια, ἃ ἦν, δίδωσιν αὐτῇ.

<sup>1</sup> δόξαντές του Bremi: δόξαντες τοῦ.

<sup>2</sup> ἂν add. Dobree.

<sup>3</sup> τῶν Bekker: τοῦ.

## ON THE ESTATE OF MENECLÉS, 6-9

### EVIDENCE

Having thus settled our sisters, gentlemen, and, being ourselves of military age, we adopted the career of a soldier and went abroad with Iphicrates to Thrace.<sup>a</sup> Having proved our worth there, we returned hither after saving a little money; and we found that our elder sister had two children, but that the younger, the wife of Meneclés, was childless. Two or three months later Meneclés, with many expressions of praise for our sister, approached us and said that he viewed with apprehension his increasing age and childlessness: she ought not, he said, to be rewarded for her virtues by having to grow old with him without bearing children; it was enough that he himself was unfortunate. [His words clearly prove that he loved her when he put her away; for no one utters supplications for one whom he hates.]<sup>b</sup> He, therefore, begged us to do him the favour of marrying her to someone else with his consent. We told him that it was for him to persuade her in the matter, for we would do whatever she agreed. At first she would not even listen to his suggestion, but in course of time she with difficulty consented. So we gave her in marriage to Elius of Sphettus,<sup>c</sup> and Meneclés handed over her dowry to him—for he had become part-lessee of the estate of the children of Nicias<sup>d</sup>—and he gave her the garments which she had brought with her to his house and the jewelry which there

<sup>a</sup> See Introduction, p. 39.

<sup>b</sup> This sentence is inappropriate and has clearly come into the text from a marginal gloss.

<sup>c</sup> A deme south-west of Athens.

<sup>d</sup> See Introduction, p. 38.

- 10 μετὰ δὲ ταῦτα χρόνου διαγενομένου ἐσκόπει ὁ Μενεκλῆς ὅπως μὴ ἔσοιτο ἄπαις, ἀλλ' ἔσοιτο αὐτῷ ὅς τις ζῶντά γηροτροφῆσοι καὶ τελευτήσαντα θάψοι αὐτὸν καὶ εἰς τὸν ἔπειτα χρόνον τὰ νομιζόμενα αὐτῷ ποιήσοι. τούτῳ μὲν οὖν ἑώρα ἓνα μόνον ὕδ' ὄντα, ὥστε ἐδόκει αὐτῷ αἰσχροὺν εἶναι ἄπαιδα τοῦτον καθιστάντα ἄρρένων παίδων
- 11 αὐτῷ κελεύειν δοῦναι τοῦτον εἰσποιήσασθαι. εὐρίσκειν οὖν οὐδένα ἄλλον οἰκειότερον ὄνθ' ἡμῶν ἑαυτῷ. λόγους οὖν πρὸς ἡμᾶς ἐποιεῖτο, καὶ ἔφη δοκεῖν αὐτῷ καλῶς ἔχειν, ἐπειδὴ οὕτως αὐτῷ ἡ τύχη συνέβη ὥστε ἐκ τῆς ἀδελφῆς τῆς ἡμετέρας παίδας αὐτῷ μὴ γενέσθαι, ἐκ ταύτης τῆς οἰκίας ὕδ' αὐτῷ ποιήσασθαι, ὅθεν καὶ φύσει παίδας ἐβουλήθη ἂν αὐτῷ γενέσθαι. “ὕμῶν οὖν” ἔφη “βούλομαι τὸν ἕτερον ποιήσασθαι, ὅποτέρῳ ὕμῶν
- 12 καλῶς ἔχει.” καὶ ὁ ἀδελφὸς ἀκούσας ταῦτα [ἐπειδὴ προετίμησεν αὐτοὺς πάντων], ἐπήνεσέ τε τοὺς λόγους αὐτοῦ, καὶ εἶπεν ὅτι δέοιτο ἢ τε ἡλικία καὶ ἡ παροῦσα ἐρημία ἐκείνου τοῦ θεραπεύσοντος αὐτὸν καὶ ἐπιδημήσοντος. “ἐμοὶ μὲν οὖν” ἔφη “συμβαίνει<sup>1</sup> ἀποδημία, ὥς σὺ οἶσθα· ὁ δὲ ἀδελφὸς οὐτοσί” ἐμὲ λέγων “τῶν τε σῶν ἐπιμελήσεται καὶ τῶν ἐμῶν, ἐὰν βούλῃ τοῦτον ποιήσασθαι.” καὶ ὁ Μενεκλῆς καλῶς ἔφη αὐτὸν λέγειν, καὶ ἐκ τοῦ τρόπου τούτου ποιεῖται με.
- 13 Ὡς οὖν κατὰ τοὺς νόμους ἐγένετο<sup>2</sup> ἡ ποίησις, τοῦτο ὕμᾶς βούλομαι διδάξαι. καί μοι τὸν νόμον ἀνάγνωθι, ὃς κελεύει τὰ ἑαυτοῦ ἐξεῖναι διαθέσθαι ὅπως ἂν ἐθέλῃ, ἐὰν μὴ παῖδες ἄρρενες ὦσι γνήσιοι.

<sup>1</sup> συμβαίνει Q: -ειν.<sup>2</sup> ἐγένετο Dobree: ἐπεγ-.

## ON THE ESTATE OF MENECLÉS, 10-13

was. Some time after this Meneclés began to consider how he could put an end to his childless condition and have someone to tend his old age and bury him when he died and thereafter carry out the customary rites over him. He saw that my opponent had only one son ; so he thought it wrong to ask him to give him his son to adopt and so deprive him of male offspring. Thus he could find no nearer relative than us ; he, therefore, approached us and said that he thought it right, since fate had decreed that he should have no children by our sister, that he should adopt a son out of the family from which he would have wished to have a son of his own in the course of nature ; “ I should like, therefore,” he said, “ to adopt one of you two, whichever is willing.” My brother, on hearing this,<sup>a</sup> expressed his approval of Meneclés’ proposal and agreed that his age and solitary condition required someone who would look after him, and remain at home ; “ I,” he said, “ as you know, go abroad ; but my brother here ” (meaning me) “ will look after your affairs as well as mine, if you wish to adopt him.” Meneclés approved of his suggestion and thus adopted me.

I wish next to prove to you that the adoption was carried out in the proper legal manner. So please read me the law which ordains that a man can dispose as he likes of his own property, if he does not possess male issue of his own. The law-

<sup>a</sup> The words bracketed in the text have certainly come in from a marginal note and are unsuited to the context here.

- ὁ γὰρ νομοθέτης, ὦ ἄνδρες, διὰ τοῦτο τὸν νόμον  
 ἔθηκεν οὕτως, ὁρῶν μόνην ταύτην καταφυγὴν  
 οὔσαν τῆς ἐρημίας καὶ παραψυχῇ τοῦ βίου τοῖς  
 ἄπαισι τῶν ἀνθρώπων, τὸ ἐξεῖναι ποιήσασθαι ὅν  
 14 τινα ἂν βούλωνται. διδόντων οὖν τῶν νόμων αὐτῷ  
 ποιεῖσθαι διὰ τὸ εἶναι ἄπαιδα, ἐμὲ ποιεῖται, οὐκ  
 ἐν διαθήκαις, ὦ ἄνδρες, γράψας, μέλλων ἀπο-  
 θνήσκειν, ὥσπερ ἄλλοι τινὲς τῶν πολιτῶν, οὐδ'  
 ἀσθενῶν· ἀλλ' ὑγιαίνων, εὖ φρονῶν, εὖ νοῶν,  
 ποιησάμενος εἰσάγει με εἰς τοὺς φράτορας παρ-  
 όντων τούτων, καὶ εἰς τοὺς δημότας με ἐγγράφει  
 15 καὶ εἰς τοὺς ὀργεῶνας. καὶ τότε μὲν οὐδὲν ἀντ-  
 ἔλεγον αὐτῷ οὗτοι ὡς <οὐκ><sup>1</sup> εὖ φρονοῦντι· καί-  
 τοι πολὺ κάλλιον ἦν ζῶντα πείθειν ἐκείνους, εἴ τι  
 βούλουντο, μᾶλλον ἢ τελευτήσαντα ὑβρίζειν καὶ  
 ἐξερημοῦν αὐτοῦ τὸν οἶκον. ἐπεβίω γὰρ ἐκείνος  
 μετὰ τὴν ποίησιν οὐκ ἐνιαυτὸν ἕνα ἢ δύο, ἀλλὰ  
 τρία καὶ εἴκοσιν ἔτη· καὶ ἐν τούτῳ τῷ χρόνῳ,  
 τοσοῦτῳ ὄντι, οὐδὲν ἐκείνος μετέγνω τῶν πεπραγ-  
 μένων ἑαυτῷ, διὰ τὸ παρὰ πάντων ὁμολογεῖσθαι  
 16 ὅτι ἦν ὀρθῶς βεβουλευμένος. καὶ ὡς ἀληθῆ λέγω  
 ταῦτα, τῆς μὲν ποιήσεως ὑμῖν<sup>2</sup> τοὺς φράτορας καὶ  
 τοὺς ὀργεῶνας καὶ τοὺς δημότας παρέξομαι μάρ-  
 τυρας, ὡς δ' ἐξῆν ποιήσασθαι, τὸν νόμον αὐτὸν  
 ὑμῖν ἀναγνώσεται, καθ' ὃν ἡ ποίησις ἐγένετο.  
 καὶ μοι τὰς μαρτυρίας ἀνάγνωθι ταύτας καὶ τὸν  
 νόμον.

ΜΑΡΤΥΡΙΑΙ. ΝΟΜΟΣ

<sup>1</sup> οὐκ add. Dobree.

<sup>2</sup> ὑμῖν Tyrwhitt: ἡμῖν.



## ON THE ESTATE OF MENECLÉS, 13-16

giver, gentlemen, legislated thus, because he saw that for childless persons the only refuge for their solitary condition, and the only possible comfort in life, lay in the possibility of adopting whomsoever they wished. The law thus allowing Meneclés, because he was childless, to adopt a son, he adopted me, not by a will made at the point of death, as other citizens have done, nor during illness; but when he was sound in body and mind, and fully aware of what he was doing, he adopted me and introduced me to his fellow-wardsmen in the presence of my opponents and enrolled me among the demesmen and the members of his confraternity.<sup>a</sup> At the time my opponents raised no objection to his action on the ground that he was not in his right mind, although it would have been much better to have tried to win him over to their point of view during his lifetime rather than insult him now that he is dead and try to desolate his house. For he lived on after the adoption, not one or two years, but twenty-three, and during all this period he never regretted what he had done, because it was universally acknowledged that he had been well advised in what he did. To prove the truth of these statements, I will produce before you, as witnesses, the wardsmen, the members of the confraternity, and the demesmen, and, to prove that Meneclés was at liberty to adopt me, the clerk of the court shall read you the text of the law in accordance with which the adoption was made. Please read these depositions and the law.

### DEPOSITIONS. LAW

<sup>a</sup> A private religious association, *cf.* Or. ix. 30.

- 17 Ὡς μὲν τοίνυν ἐξῆν τῷ Μενεκλεῖ ποιήσασθαι  
 ὑὸν αὐτῷ ὃν τινα ἐβούλετο, ὁ νόμος αὐτὸς δηλοῖ·  
 ὡς δὲ ἐποιήσατο, οἷ τε φράτορες καὶ οἱ δημόται καὶ  
 οἱ ὀργεῶνες ὑμῖν μεμαρτυρήκασιν· ὥστε περιφανῶς  
 ἀποδέδεικται ἡμῖν,<sup>1</sup> ὦ ἄνδρες, ὁ μάρτυς τὰληθῆ  
 διαμεμαρτυρηκῶς, καὶ οὗτοι πρὸς γε τὴν ποίησιν  
 αὐτὴν λόγον οὐδ' ὄντινοῦν δύναιντ' ἂν ἀντειπεῖν.
- 18 Πραχθέντων δὲ τούτων ἐσκόπει ὁ Μενεκλῆς  
 γυναῖκά μοι, καὶ ἔφη με χρῆναι γῆμαι· καὶ ἐγὼ  
 λαμβάνω τὴν τοῦ Φιλωνίδου θυγατέρα. καὶ ἐκεῖνός  
 τε τὴν πρόνοιαν εἶχεν ὥσπερ εἰκὸς ἐστὶ πατέρα  
 περὶ υἱοῦ ἔχειν, καὶ ἐγὼ τὸν αὐτὸν τρόπον ὥσπερ  
 γόνυ ὄντα πατέρα ἐμαυτοῦ ἐθεράπευόν τε καὶ  
 ἡσυχυνόμην, καὶ ἐγὼ καὶ ἡ γυνὴ ἡ ἐμή, ὥστε  
 ἐκείνον πρὸς τοὺς δημότας ἐπαινεῖν ἅπαντας.
- 19 Ὅτι δὲ οὐ παρανοῶν οὐδὲ γυναικὶ πειθόμενος ὁ  
 Μενεκλῆς ἐποιήσατο, ἀλλ' εὖ φρονῶν, ἐνθένδε  
 ἐστὶν ὑμῖν ῥάδιον ἐπιγνῶναι. πρῶτον μὲν γὰρ ἡ  
 ἀδελφή, περὶ ἧς οὗτος τὸν<sup>2</sup> πλείστον τοῦ λόγου  
 πεποιήται, ὡς ἐκείνη πεισθεὶς ἐμὲ ἐποιήσατο,  
 πολλῷ πρότερον ἢν ἐκδεδομένη ἢ<sup>3</sup> τὴν ποίησιν  
 γενέσθαι, ὥστ' εἰ γ' ἐκείνη πεισθεὶς τὸν ὑὸν  
 ἐποιεῖτο, τῶν ἐκείνης παίδων τὸν ἕτερον ἐποιήσατ'
- 20 ἂν· δύο γάρ εἰσιν αὐτῇ. ἀλλ', ὦ ἄνδρες, οὐχ ὑπ'  
 ἐκείνης πεισθεὶς ἐμὲ ἐποιήσατο ὑόν, ἀλλὰ μάλιστα  
 μὲν ὑπὸ τῆς ἐρημίας [ἐπείσθη], δεύτερον δὲ διὰ  
 τὰς προειρημένας αἰτίας καὶ διὰ τὴν εὖνοιαν τὴν  
 ὑπάρχουσαν πρὸς τὸν πατέρα τὸν ἐμόν, τρίτον δὲ  
 διὰ τὸ μὴ εἶναι συγγενῇ μηδέν' ἄλλον αὐτῷ,  
 ὁπόθεν ἂν ἐποιήσατο ὑόν. ταῦτα τηνικαῦτα ἐν-

<sup>1</sup> ἡμῖν Q: ὑμῖν.<sup>2</sup> τὸν edd.: τὸ.<sup>3</sup> ἡ Q: πρινή.

## ON THE ESTATE OF MENECLÉS, 17-20

The law itself makes it clear that Menecles was free to adopt anyone he liked as his son ; that he did adopt a son, the wardsmen, the demesmen, and the members of the confraternity have provided evidence. Thus we have clearly proved it, gentlemen, the witness <sup>a</sup> has attested the truth of it, and my opponents cannot say a word against the actual fact of the adoption.

After this, Menecles began to look about for a wife for me, and said I ought to marry. So I married the daughter of Philonides. Menecles exercised the forethought on my behalf which a father would naturally exercise for his son, and I tended him and respected him as though he were my true father, as also did my wife, so that he praised us to all his fellow-demesmen.

That Menecles was not insane or under the influence of a woman but in his right mind when he adopted me, you can easily understand from the following facts. In the first place, my sister, with whom most of my opponent's argument has been concerned, and under whose influence he alleges that Menecles adopted me, had remarried long before the adoption took place, so that, if it had been under her influence that he was adopting his son, he would have adopted one of her boys ; for she has two. But, gentlemen, it was not under her influence that he adopted me as his son ; his chief motive was his loneliness, and, secondly, the other causes I have mentioned, and the goodwill which he felt towards my father, and, thirdly, because he had no other relative from whose family he might have adopted a son. These were the motives which at the time

<sup>a</sup> Philonides.

ἤγεν ἐμὲ ποιήσασθαι· ὥστε οὐ παραφρονῶν φαίνεται οὐδὲ τῇ γυναικὶ πεισθείς, εἰ μὴ ἄρα τὴν ἐρημίαν αὐτοῦ καὶ τὴν ἀπαιδίαν οὗτος βούλεται τὸ ὄνομα τοῦτο προσαγορεύειν.

- 21 Ἡδέως δ' ἂν μοι δοκῶ<sup>1</sup> τούτου πυθέσθαι τοῦ φάσκοντος εὖ φρονεῖν, τίνα ποιήσασθαι ἐχρῆν [ἀπὸ] τῶν συγγενῶν; πότερα τὸν υἱὸν τὸν τούτου; ἀλλ' οὐκ ἂν αὐτῷ ἔδωκεν, ἄπαιδα αὐτὸν καθιστάς· οὐχ οὕτως οὗτός ἐστι φιλοχρήματος. ἀλλὰ τὸν τῆς ἀδελφῆς ἢ τὸν τῆς ἀνεψιάς ἢ τὸν τοῦ ἀνεψιοῦ; ἀλλὰ τὴν ἀρχὴν οὐκ ἐγένετο αὐτῷ οὐδεὶς τούτων
- 22 τῶν συγγενῶν. οὐκοῦν ἐξ ἀνάγκης ἦν αὐτῷ ἄλλον τινὰ ποιήσασθαι μᾶλλον ἢ ἄπαιδα καταγερᾶν, ὥσπερ οὗτος ἀξιοῖ νυνὶ αὐτόν. ἐγὼ τοίνυν πάντας [ἀνθρώπους] ἂν οἶμαι ὁμολογῆσαι ὑμᾶς ὡς οὐκ ἂν ποιησάμενος ἄλλον οἰκειότερον ἐμοῦ ἐποίησατ'<sup>2</sup> ἂν. δειξάτω γὰρ οὗτος ὑμῖν. ἀλλ' οὐκ ἂν ποτε δύναιτο· ἦν γὰρ οὐδεὶς ἄλλος συγγενῆς αὐτῷ πλην τούτων.
- 23 Ἀλλὰ νῦν οὗτος ἐπιτιμῶν αὐτῷ φαίνεται οὐχ ὅτι τὸν υἱὸν οὐκ ἐποίησατο τὸν αὐτοῦ, ἀλλ' ὅτι τὸ παράπαν ἐποίησατο καὶ οὐκ ἐτελεύτησεν ἄπαις. τοῦτ' ἔστιν ὃ ἐπιτιμᾷ, ἐπίφθονον πρᾶγμα καὶ οὐ δίκαιον ποιῶν· ὄντων γὰρ αὐτῷ παίδων ἐκείνῳ
- 24 ὄντι ἄπαιδι καὶ ἀτυχοῦντι φαίνεται ἐπιτιμῶν. καὶ τοῖς μὲν ἄλλοις ἅπασιν ἀνθρώποις καὶ Ἑλλήσι καὶ βαρβάροις δοκεῖ καλῶς οὗτος ὁ νόμος κείσθαι, ὃ περὶ τῆς ποιήσεως, καὶ διὰ τοῦτο χρῶνται πάντες αὐτῷ· ὃ δὲ θεῖος οὗτοσὶ οὐκ αἰσχύνεται τὸν αὐτοῦ ἀδελφὸν ταύτης τῆς ἐξουσίας ἀποστερῶν νῦν, τοῦ ποιήσασθαι, ἧς οὐδὲ τοῖς οὐ γένει προσ-

<sup>1</sup> δοκῶ Orelli: ποθῶ.

<sup>2</sup> ἐποίησατ' Dobree: ποιήσαιτ'.

induced him to adopt me ; so that it is quite clear that he was not insane or under the influence of a woman, unless, indeed, my opponent wishes to describe his loneliness and childlessness in these terms.

I feel that I should like my opponent, who thinks himself so wise, to tell me whom of his relatives Menecles ought to have adopted ? Ought he to have adopted my opponent's son ? But he would never have given him up and so rendered himself childless ; he is not so avaricious as all that. Well then, the son of his sister or of his male or female cousin ? But he had no such relative at all. He was, therefore, obliged to adopt someone else, or, failing that, grow old in childlessness, as my opponent now thinks he ought to have done. I think, therefore, that you would all admit that, when he adopted a son, he could not have adopted anyone who was more closely connected with him than I was. Otherwise, let my opponent indicate such a person. He cannot possibly do so ; for he had no other kinsman than those whom I have mentioned.

But my opponent is now clearly blaming Menecles not for failing to adopt his own son but for adopting any son at all and not dying childless. It is for this that he blames him, a proceeding which is as spiteful as it is unjust ; for while he has children of his own, he is obviously blaming Menecles for being childless and unfortunate. All other men, whether Greek or barbarians, regard this law about adoption as a good one and therefore all make use of it ; but my uncle here is not ashamed to deprive his own brother of this right to adopt a son, the enjoyment of which no one has ever grudged even those

- 25 ἤκουσιν οὐδεὶς πώποτε ἐφθόνησεν. οἶμαι δὲ καὶ<sup>1</sup> τοῦτον, εἴ τις ἐρωτήσκειν αὐτὸν τί<sup>2</sup> δὴ ποτ' ἂν ἐποίησεν εἰς τὴν αὐτὴν τύχην ἐκείνῳ καταστάς, οὐκ ἄλλ' οὐδὲν εἰπεῖν ἢ ὅτι ἐποίησατ' ἂν ὅς τις αὐτὸν ἔμελλε ζῶντα θεραπεύσειν καὶ τελευτήσαντα θάψει· καὶ δῆλον ὅτι κατὰ τὸν αὐτὸν τοῦτον νόμον ἢ ποιήσις ἐγένετ' ἂν, καθ' ὃν περ ἡ ἐμή. εἶτα αὐτὸς μὲν εἰ ἦν ἄπαις, ἐποίησατ' ἂν· τὸν δὲ Μενεκλέα ποιήσαντα ταῦτά τούτῳ παραφρονεῖν
- 26 φησι καὶ γυναικὶ πειθόμενον ποιήσασθαι. πῶς οὖν οὐ σχέτλια λέγων φαίνεται; ἐγὼ γὰρ οἶμαι πολλῷ μᾶλλον τοῦτον παραφρονεῖν τῷ τε λόγῳ τούτῳ ᾧ νυνὶ λέγει, καὶ οἷς ποιεῖ.<sup>3</sup> τοῖς τε γὰρ νόμοις καὶ <τοῖς><sup>4</sup> δικαίοις καὶ οἷς αὐτὸς ἐποίησεν ἂν τάναντία λέγων φαίνεται, καὶ οὐκ αἰσχύνεται μὲν αὐτῷ τὸν νόμον τὸν περὶ τῆς ποιήσεως ποιῶν κύριον, τῷ δὲ ἀδελφῷ τὸν αὐτὸν τοῦτον ζητῶν ἄκυρον ποιῆσαι.
- 27 Εἶτα νῦν διὰ τί διαφερόμενος ζητεῖ οὗτος τὸν ἀδελφὸν τὸν ἑαυτοῦ ἄπαιδα καταστήσαι, ἄξιόν ἐστιν, ᾧ ἄνδρες, ἀκοῦσαι. εἰ μὲν γὰρ περὶ τοῦ ὀνόματός μοι διαφέρεται καὶ ἀναίνεται, εἰ ἐγὼ ἔσομαι υἱὸς Μενεκλέους, πῶς οὐ φθονερός ἐστιν; εἰ δὲ περὶ χρημάτων ἐστὶν ὁ λόγος αὐτῷ, ἐπιδειξάτω ὑμῖν ὅποιον χωρίον ἢ συνοικίαν ἢ οἰκίαν κατέλιπεν ἐκείνος, ᾧ ἐγὼ ἔχω νυνί. εἰ δὲ μηδὲν τούτων κατέλιπεν, ᾧ δ' ἦν αὐτῷ ὑπόλοιπα, ἐπειδὴ τῷ ὀρφανῷ τὸ ἀργύριον ἀπέδωκεν, οὗτος ἔλαβε ζῶντος ἐκείνου ἔτι, πῶς οὐ περιφανῶς ἐξελέγχεται

<sup>1</sup> καὶ Gebauer: καὶ.

<sup>2</sup> τί Tyrwhitt: ἡ.

<sup>3</sup> ποιεῖ Bekker: ποιεῖται.

<sup>4</sup> τοῖς om. A: τοῖς γὰρ δικαίοις καὶ τοῖς νόμοις Q.

who were no relatives at all. I think that my opponent, if anyone were to ask him what he would have done in the same circumstances as Menecles, would have nothing to say except that he would have adopted someone who was likely to look after him while he lived and bury him when he died ; and it is obvious that the adoption would have been carried out under the same law as mine was. He himself, then, if he had been childless, would have adopted a son ; but when Menecles acts in the same manner, he declares that he was insane and under the influence of a woman when he adopted me. Is it not clear that he is talking in an abominable manner ? I am of opinion that it is much rather my opponent who is insane by reason of the line of argument which he employs and the things which he does. For he is clearly arguing the contrary of the laws and of justice and of what he himself would have done, and is not ashamed of making the law about adoption valid for himself, while he seeks to render this same law of no effect for his brother.

Next, it is right, gentlemen, that you should hear what cause of quarrel my opponent has that he seeks to make his own brother childless. For if he has any quarrel with me about my name, and repudiates the suggestion that I am to be called Menecles' son, is he not the victim of mean jealousy ? But if it is a question of money with him, let him point out to you what land or building or house Menecles left behind of which I am now in possession. But if he left no such property, but my opponent took from him in his lifetime all that remained after he had paid off the money due to the orphan, is he not clearly convicted of shameless



- 28 ἀναιδῆς ὢν; ὥς δὲ ἔχει, ἐγὼ ἐπιδείξω. ἐπειδὴ γὰρ ἔδει τῷ ὀρφανῷ τὰ χρήματα ἀποδιδόναι,<sup>1</sup> ὁ δ' οὐκ εἶχεν ὁπόθεν ἀποδῶ, τόκοι δὲ πολλοῦ χρόνου συνερρυηκότες ἦσαν αὐτῷ, τὸ χωρίον ἐπώλει. καὶ οὗτος καιροῦ λαβόμενος καὶ βουλόμενος αὐτῷ ἐπηρεάζειν, ὅτι ἐμὲ ἐποίησατο, διεκώλυε τὸ χωρίον πραθῆναι, ἵνα κατοκώχιμον<sup>2</sup> γένηται καὶ ἀναγκασθῇ τῷ ὀρφανῷ ἀποστῆναι. ἡμφισβήτει οὖν αὐτῷ μέρους τινὸς τοῦ χωρίου, πρότερον οὐδὲ πώποτε ἀμφισβητήσας, καὶ ἀπ-
- 29 ηγόρευε τοῖς ὠνούμενοις μὴ ὠνεῖσθαι. καὶ κεῖνος ἡγανάκτει, οἶμαι, καὶ ἡναγκάζετο ὑπολείπεσθαι οὗ ἡμφισβήτησεν οὗτος. τὸ δὲ ἄλλο ἀποδίδοται<sup>3</sup> Φιλίππῳ τῷ Πιθεῖ<sup>4</sup> ἑβδομήκοντα μνῶν, καὶ οὕτω διαλύει τὸν ὀρφανόν, ἐπτά μνᾶς καὶ τάλαντον ἀποδοὺς ἀπὸ τῆς τιμῆς τοῦ χωρίου· τούτῳ δὲ λαγχάνει δίκην τῆς ἀπορρήσεως. λόγων δὲ πολλῶν γενομένων καὶ ἔχθρας πολλῆς ἔδοξεν ἡμῖν χρήναι, ἵνα μὴ ποτε εἴπῃ τις ἐμὲ φιλοχρηματεῖν καὶ ἐχθροὺς ἀδελφοὺς ὄντας αὐτοὺς<sup>5</sup> καθιστάναι,<sup>6</sup> ἐπιτρέψαι τῷ τε κηδεστῇ τῷ τούτου καὶ τοῖς
- 30 φίλοις διαιτῆσαι. ἐκεῖνοι δ' εἶπον ἡμῖν, εἰ μὲν<sup>7</sup> ἐπιτρέπομεν αὐτοῖς ὥστε τὰ δίκαια διαγνῶναι, οὐκ ἂν ἔφασαν διαιτῆσαι· οὐδὲν γὰρ δεῖσθαι ἀπέχθεσθαι οὐδετέροις ἡμῶν· εἰ δ' ἐάσομεν αὐτοὺς γινῶναι τὰ συμφέροντα πᾶσιν, ἔφασαν διαιτῆσειν. καὶ ἡμεῖς, ἵνα δὴ πραγμάτων ἀπαλλαγῶμεν, ὥς γε δὴ

<sup>1</sup> ἀποδιδόναι Bekker: -δίδοσθαι.

<sup>2</sup> κατοκώχιμον Dobree: κατόχιμον.

<sup>3</sup> ἀποδίδοται Bekker: -διδόναι.

<sup>4</sup> Πιθεῖ Sauppe: πιθεῖ.

<sup>5</sup> αὐτοὺς Bremi: αὐτοῦ.

<sup>6</sup> καθιστάναι Baiter-Sauppe: -άνειν.

<sup>7</sup> μὲν Bekker: μῆ.



conduct? I will put the facts of the case before you. When it became necessary to pay back the money to the orphan, and Menecles did not possess the requisite sum, and interest had accumulated against him over a long period, he was for selling the land. My opponent, seizing the opportunity and being desirous to pick a quarrel with him because he had adopted me, tried to prevent the land from being sold, in order that it might be held as a pledge, and that Menecles might be obliged to cede the possession of it to the orphan. My opponent, therefore, claimed a part of the property from Menecles, though he had never previously made any such claim, and tried to prevent the purchasers from completing the purchase. Menecles was annoyed, as I can well imagine, and was obliged to reserve the portion which my opponent claimed; the rest he sold to Philippus of Pithos for seventy minae and thus paid off the orphan, giving him one talent and seven minae out of the price of the property; and he brought an action against his brother for restraining the sale. After long discussion had taken place and much bad feeling been aroused, we thought it best, in order that no one might say that I was avaricious and that I was setting these men, who were brothers, against one another, to submit the matter to the arbitration of my opponent's brother-in-law and our friends. The latter told us that, if we were to entrust them to decide the rights of the case, they would refuse to act as arbitrators, for they did not wish to quarrel with either party; if, however, we would allow them to decide what was in the interest of all, they consented to act. So we, in order, as we thought, to get rid of the

- 31 ὥόμεθα,<sup>1</sup> οὕτως ἐπιτρέπομεν. καὶ ἐκεῖνοι ὁμό-  
σαντες ἡμῖν πρὸς τῷ βωμῷ τῷ τῆς Ἀφροδίτης  
τῆς Κεφαλῇσι<sup>2</sup> τὰ συμφέροντα γνῶσεσθαι, δι-  
ήτησαν ἡμᾶς ἀποστῆναι ὧν οὗτος ἡμφισβήτησε  
καὶ δοῦναι δωρεάν· οὐ γὰρ ἔφασαν εἶναι ἄλλην ἀπ-  
αλλαγὴν οὐδεμίαν, εἰ μὴ μεταλήψονται οὗτοι τῶν  
32 ἐκείνου. ἐκ δὲ τοῦ λοιποῦ χρόνου ἔγνωσαν ἡμᾶς  
εὖ ποιεῖν ἀλλήλους καὶ λόγῳ καὶ ἔργῳ, καὶ ταῦτα  
ὁμόσαι ἠνάγκασαν ἡμᾶς ἀμφοτέρους πρὸς τῷ  
βωμῷ ἢ μὴν ποιήσιν.<sup>3</sup> καὶ ἡμεῖς ὥμόσαμεν εὖ  
ποιεῖν ἀλλήλους ἐκ τοῦ ἐπιλοιποῦ χρόνου, κατὰ  
33 δύναμιν εἶναι, καὶ λόγῳ καὶ ἔργῳ. καὶ ὥς ὁ τε  
ὄρκος ἐγένετο, καὶ ἔχουσιν οὗτοι ἃ ἐγνώσθη αὐτοῖς  
ὑπὸ<sup>4</sup> τῶν οἰκείων τῶν τούτου, εἶτα νυνὶ ταυτὶ τὰ  
ἀγαθὰ ποιούσιν ἡμᾶς, τὸν μὲν τεθνεῶτα ἄπαιδα  
βουλόμενοι καταστήσαι, ἐμὲ δ' ἐκβάλλειν ὑβρίσαν-  
τες ἐκ τοῦ οἴκου, τοὺς γνόντας αὐτοὺς ὑμῖν παρ-  
έξομαι μάρτυρας, ἐὰν ἐθέλωσιν ἀναβαίνειν (εἰσὶ γὰρ  
τούτων οἰκείοι), εἰ δὲ μή, τοὺς παραγενομένους.  
34 καὶ μοι τὰς μαρτυρίας ἀνάγνωθι ταυτασί· σὺ δ'  
ἐπίλαβε<sup>5</sup> τὸ ὕδωρ.

ΜΑΡΤΥΡΙΑΙ

Λαβὲ δὴ μοι τὰς μαρτυρίας ἐκείνας, ὥς τό τε  
χωρίον ἐβδομήκοντα μνῶν ἐπράθη, καὶ ὥς ἀπ-  
έλαβεν ὁ ὀρφανὸς ἑπτὰ καὶ ἐξήκοντα μνᾶς πραθέντος  
τοῦ χωρίου.

<sup>1</sup> ὥς γε δὴ ὥόμεθα Sauppe: ὥστε δηώμεθα.

<sup>2</sup> Κεφαλῇσι Schoemann: κεφαλαίωσι.

<sup>3</sup> ποιήσιν Q: ποιεῖν.

<sup>4</sup> ὑπὸ Q: ἀπὸ.

<sup>5</sup> ἐπίλαβε Tyrwhitt: ἐπίβαλε.

<sup>a</sup> This sanctuary is mentioned on an inscription found near the E. coast of Attica about 12 miles N. of Sunium.

matter, entrusted the decision to them on these terms. They, after having sworn an oath to us at the altar of Aphrodite at Cephale<sup>a</sup> that they would decide what was to our common interest, gave as their verdict that we should give up what my opponent claimed and hand it over to him as a free gift; for they declared that the only way of settling the matter was that my opponent should receive a share of Menecles' property. They decided that for the future we must behave in a proper manner towards one another, both in word and in deed, and they obliged both parties to swear at the altar that they would do so; so we swore that we would in future behave properly towards one another both in word and in deed, as far as lay within our power. That the oath was sworn and that these men are in possession of the property which was awarded to them by my opponent's friends and that their notion of behaving well towards us is this, to try and make the deceased childless and drive me forth with insult from his family—of all this I will produce before you as witnesses the very men who gave the decision, if they are willing to appear (for they are my opponent's friends), but, if not, those who were present on the occasion. Please read these depositions; and, you, turn off the water-clock.<sup>b</sup>

#### EVIDENCE

Now, please, take these depositions to the effect that the land was sold for seventy minae and that the orphan received sixty-seven minae from the proceeds.

<sup>b</sup> The length of the speeches was regulated by means of a water-clock, which was turned off during the reading of laws and depositions.

# ISAEUS

## ΜΑΡΤΥΡΙΑΙ

- 35 Ὁ θεῖος τοίνυν οὗτοσί, ὦ ἄνδρες, κεκληρονομη-  
κῶς τῶν ἐκείνου ἔργῳ καὶ οὐ λόγῳ ὥσπερ ἐγώ,  
καὶ ἔχων ἐμοῦ πολλῶ πλείονα· ἐγὼ γὰρ τὰς τρια-  
κοσίας δραχμὰς ἔλαβον τὰς περιλειφθείσας ἀπὸ  
τῆς τιμῆς τοῦ χωρίου, καὶ οἰκίδιον ὃ ἐστὶν οὐκ  
ἄξιον τριῶν μνῶν· οὗτος δὲ πλείον ἢ δέκα μνῶν  
χωρίον ἔχων, εἴτα προσέτι νῦν ἦκει τὸν οἶκον  
36 αὐτοῦ ἐξερημώσων. καὶ ἐγὼ μὲν ὁ ποιητὸς ἐκεί-  
νόν τε ζῶντα ἐθεράπευον, καὶ αὐτὸς καὶ ἡ ἐμὴ  
γυνή, θυγάτηρ οὔσα τουτουὶ Φιλωνίδου, καὶ τῷ  
ἐμῷ παιδίῳ ἐθέμην τὸ ὄνομα τὸ ἐκείνου, ἵνα μὴ  
ἀνώνυμος ὁ οἶκος αὐτοῦ γένηται, καὶ τελευτήσαντα  
ἔθαψα ἀξίως ἐκείνου τε καὶ ἐμαντοῦ, καὶ ἐπίθημα  
καλὸν ἐπέθηκα, καὶ τὰ ἔνατα καὶ τᾶλλα πάντα  
ἐποίησα τὰ περὶ τὴν ταφὴν ὡς οἶόν τε κάλλιστα,  
37 ὥστε τοὺς δημότας ἐπαινεῖν ἅπαντας· οὗτος δὲ  
ὁ συγγενής, ὁ ἐπιτιμῶν αὐτῷ ὅτι υἱὸν ἐποιήσατο,  
ζῶντος μὲν τὸ χωρίον τὸ περιλειφθὲν αὐτῷ περι-  
είλετο, τελευτήσαντα δ' αὐτὸν ἅπαιδα καὶ ἀνώνυμον  
βούλεται καταστήσαι. τοιοῦτός ἐστιν οὗτος. καὶ  
ὡς ἔθαψά τ' ἐγὼ αὐτὸν καὶ τὰ τρίτα καὶ τὰ ἔνατα  
ἐποίησα καὶ τᾶλλα τὰ περὶ τὴν ταφὴν, τὰς μαρ-  
τυρίας ὑμῖν τῶν εἰδότων ἀναγνώσεται.

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<sup>a</sup> i.e., seeking to disinherit the adopted son and so deprive Menecles of a representative to carry on his family.

## EVIDENCE

Thus it is my uncle here, gentlemen, who has inherited the property of Menecles—really and not merely nominally, as I have—and has a much larger share than I have ; for I received only the three hundred drachmae which remained over out of the proceeds of the sale and a small house not worth three minae. My opponent, on the other hand, being in possession of land worth more than ten minae, has now, moreover, come into court with the object of rendering desolate the house of the deceased.<sup>a</sup> I, the adopted son, with the aid of my wife, the daughter of Philonides here, tended Menecles while he lived and gave his name to my little son, in order that his family might not lack a representative. On his death, I buried him in a manner befitting both him and myself, and I erected a fine monument to him and celebrated the commemorative ceremony on the ninth day and performed all the other rites at the tomb in the best manner possible, so that I won the praise of all the members of my deme. But my opponent, his kinsman, who blames him for having adopted a son, during his lifetime deprived him of the landed property which remained to him, and, now that he is dead, wishes to render him childless and wipe out his very name ; that is the kind of man he is. In proof that I buried Menecles and performed the ceremonies on the third and ninth days and all the other rites connected with the burial, the clerk shall read you the depositions of those who are acquainted with the facts.

# ISAEUS

## ΜΑΡΤΥΡΙΑΙ

- 38 "Οτι τοίνυν ὁ Μενεκλῆς, ὦ ἄνδρες, ἐποίησατό  
 με οὐ παρανοῶν οὐδὲ γυναικὶ πειθόμενος, βούλομαι  
 ὑμῖν καὶ αὐτοὺς τούτους μάρτυρας παρασχέσθαι,  
 [καὶ] ἐμοὶ μαρτυροῦντας ἔργῳ καὶ οὐ λόγῳ, ἐξ  
 ὧν ἔπραξαν αὐτοί, ὅτι ἐγὼ τἀληθῆ λέγω. τὰς  
 γὰρ διαλύσεις φαίνονται πρὸς ἐμὲ ποιησάμενοι  
 ἀμφότεροι οὗτοι, καὶ οὐ πρὸς τὸν Μενεκλέα, καὶ  
 39 ὁμόσαντες ὅρκους <ἐμοὶ><sup>1</sup> καὶ ἐγὼ τούτοις. καίτοι  
 εἴ γε μὴ κατὰ τοὺς νόμους ἐγεγέννητο ἢ ποίησις,  
 μηδὲ κληρονόμος ἦν ἐγὼ τῶν<sup>2</sup> Μενεκλέους ὑπ'  
 αὐτῶν τούτων δεδοκιμασμένος, τί ἔδει αὐτοὺς  
 ὀμνύναι ἐμοὶ ἢ παρ' ἐμοῦ λαμβάνειν ὅρκους;  
 οὐδὲν<sup>3</sup> δήπου. οὐκοῦν ὅποτε ἐποίησαν ταῦτα,  
 φαίνονται αὐτοὶ οὗτοι ἐμοὶ μαρτυροῦντες ὅτι κατὰ  
 τοὺς νόμους ἐποιήθην<sup>4</sup> [ἢ ποίησις] καὶ δικαίως  
 40 εἰμὶ κληρονόμος τῶν Μενεκλέους. ἐγὼ δ' οἶμαι  
 καταφανὲς ὑμῖν ἅπασι τοῦτ' εἶναι, ὥς καὶ παρὰ  
 τούτων αὐτῶν ὁμολογούμενόν ἐστιν ὅτι Μενεκλῆς  
 οὐ παρεφρόνει, ἀλλὰ πολὺ μᾶλλον οὗτος νυνί, ὅς  
 γε ποιησάμενος τῆς ἔχθρας διάλυσιν πρὸς ἡμᾶς καὶ  
 ὁμόσας ὅρκους πάλιν νῦν ἤκει τὰ ὁμολογηθέντα  
 καὶ ὁμοθέντα παραβάς, καὶ ἀφελέσθαι με ἀξιοῖ  
 41 ταυτὶ τὰ λοιπά, οὕτως ὄντα μικρά. ἐγὼ δὲ εἰ μὴ  
 πάνυ τὸ πρᾶγμα αἰσχροὺς εἶναι ἐνόμιζον καὶ ἐπονεί-  
 διστον, προδοῦναι τὸν πατέρα οὐ εἶναι ὠνομάσθην  
 καὶ ὅς ἐποίησατό με, ταχὺ ἂν ἀπέστην αὐτῷ τῶν  
 ἐκείνου· ἔστι γὰρ ὑπόλοιπον οὐδὲ ἔν, ὥς καὶ ὑμᾶς  
 42 οἶομαι αἰσθάνεσθαι. νυνὶ δὲ δεινὸν τὸ πρᾶγμα καὶ

<sup>1</sup> ἐμοὶ add. Bremi.

<sup>3</sup> οὐδὲν Tyrwhitt: οὐδὲ ἐν.

<sup>2</sup> τῶν edd.: τοῦ.

<sup>4</sup> ἐποιήθην Cobet: ᾶ-η.

## EVIDENCE

In support of the truth of my assertion, gentlemen, that Meneclés, when he adopted me, was not insane or under the influence of a woman, I wish to bring before you my opponents themselves as witnesses, not in word but in deed, by their own conduct. For it is notorious that both of them went through the process of reconciliation with me and not with Meneclés, and swore an oath to me, as I did to them. Yet if the adoption had not been carried out in proper legal form and I had not been recognized as heir to Meneclés' property by my opponents themselves, what need was there for them to swear to me and to receive an oath from me? Surely none. By so acting then they themselves clearly bear witness that I was legally adopted and am the rightful heir of Meneclés. It is clear, I think, to you all that it was acknowledged even by my opponents themselves that Meneclés was not insane but that it is much rather my opponent who is insane now, seeing that, after having effected a settlement of his quarrel with us and having sworn oaths, he has now again come forward in violation of his acknowledgements and oaths, and demands that I shall be deprived of these poor remnants of the estate. Were it not that I think it an altogether base and shameful act to betray him whose son I was called and who adopted me, I would have readily abandoned the right of succession to his estate in favour of my opponent; for there is nothing at all left, as I think you realize. But, in the cir-

- αἰσχρὸν εἶναι τῇδε νομίζω, εἰ ἡνίκα μὲν ὁ Μενεκλῆς εἶχέ τι, τότε μὲν ἔδωκα ἑμαυτὸν ὑὸν αὐτῷ ποιήσασθαι, καὶ ἀπὸ τῆς οὐσίας τῆς ἐκείνου, πρὶν πραθῆναι τὸ χωρίον, ἐγυμνασιάρχουν ἐν τῷ δήμῳ καὶ ἐφιλοτιμήθην ὡς υἱὸς ὦν ἐκείνου, καὶ τὰς στρατείας, ὅσαι ἐγένοντο ἐν τῷ χρόνῳ τούτῳ, ἐστράτευμαι ἐν τῇ φυλῇ τῇ ἐκείνου καὶ ἐν τῷ
- 43 δῆμῳ· ἐπειδὴ δὲ ἐκείνος ἐτελεύτησεν, εἰ προδώσω καὶ ἐξερημώσας αὐτοῦ τὸν οἶκον ἀπιὼν οἰχήσομαι, πῶς οὐκ ἂν δεινὸν τὸ πρᾶγμα εἶναι καὶ καταγέλαστον δοκοίη, καὶ τοῖς βουλομένοις περὶ ἐμοῦ βλασφημεῖν πολλὴν ἐξουσίαν παράσχοι<sup>1</sup>; καὶ οὐ μόνον ταῦτ' ἐστὶ τὰ ποιοῦντά με ἀγωνίζεσθαι τὸν ἀγῶνα τούτον, ἀλλ' εἰ οὕτω φαῦλος ἄνθρωπος δοκῶ εἶναι καὶ μηδενὸς ἄξιος, ὥστε ὑπὸ μὲν εὖ φρονούντος μηδ' ὑφ' ἐνὸς ἂν ποιηθῆναι τῶν φίλων, ὑπὸ δὲ παραφρονούντος, ταῦτ' ἐστὶ τὰ λυποῦντά με.
- 44 Ἐγὼ οὖν δέομαι ὑμῶν πάντων, ὦ ἄνδρες, καὶ ἀντιβολῶ καὶ ἰκετεύω ἐλεῆσαί με καὶ ἀποψηφίσασθαι τοῦ μάρτυρος τουτουί. ἀπέφηνα δ' ὑμῖν πρῶτον μὲν ποιηθέντα ἑμαυτὸν ὑπὸ τοῦ Μενεκλέους ὡς ἂν τις δικαιότατα ποιηθείη,<sup>2</sup> καὶ οὐ λόγῳ οὐδὲ διαθήκῃ τὴν ποίησιν γεγεννημένην, ἀλλ' ἔργῳ· καὶ τούτων ὑμῖν τοὺς τε φράτορας καὶ τοὺς
- 45 δημότας καὶ τοὺς ὀργεῶνας παρεσχόμεν μάρτυρας· καὶ ἐκείνον ἐπέδειξα τρία καὶ εἴκοσιν ἐπιβιόντα<sup>3</sup> ἔτη. εἶτα τοὺς νόμους ἐπέδειξα ὑμῖν τοῖς ἅπαισι τῶν ἀνθρώπων<sup>4</sup> ἐξουσίαν διδόντας ὑεῖς ποιεῖσθαι.

<sup>1</sup> παράσχοι Buermann: παράσχομαι.

<sup>2</sup> ποιηθείη Bekker: -θή.

<sup>3</sup> ἐπιβιόντα Bamberg: ἐπιβιούντα.

<sup>4</sup> τοῖς ἅπαισι τῶν ἀνθρώπων Naber: τοῖς ἅπασιν τοῖς ἀνθρώποις.



cumstances, I consider it terrible and disgraceful that, when Menecles possessed property, I accepted adoption as his son and out of his property, before the land was sold, acted as gymnasiarch<sup>a</sup> in his deme and won credit as his son, and served in his tribe and deme on all the campaigns which took place during that period ; and, now that he is dead, if I shall betray him and go off leaving his house desolate, would it not seem a strange and ridiculous proceeding, and give those who wish to do so a good occasion to speak evil of me ? And these are not the only motives which induce me to fight this case ; but what grieves me is the possibility of being thought so worthless and good-for-nothing as not to be able to find a friend in his right senses, but only a madman, to adopt me.

I beg you all therefore, gentlemen, and beseech and entreat you to pity me and to acquit the witness here. I have shown you that, in the first place, I was adopted by Menecles with the strictest possible legality, and that the form of adoption was not merely verbal or by will but by very act and deed ; and of these things I produced before you the evidence of the wardsmen, the demesmen, and the members of the confraternity. I further showed that Menecles lived for twenty-three years after he had adopted me. Further, I placed before you the laws which permit those who are childless to adopt sons. In addition to this I am shown to have tended

<sup>a</sup> The duty of the gymnasiarch was to bear the expense of the torch-races at certain festivals.

καὶ ἔτι πρὸς τούτοις ζῶντα τε φαίνομαι θεραπεύων  
 46 αὐτὸν καὶ τελευτήσαντα θάψας. οὗτος δὲ νυνὶ  
 ἄκληρον μὲν ἐμὲ ποιεῖν τοῦ κλήρου τοῦ πατρῷου,  
 εἴτε μείζων ἐστὶν οὗτος εἴτε ἐλάττων, ἅπαιδα δὲ  
 τὸν τελευτήσαντα καὶ ἀνώνυμον βούλεται κατα-  
 στῆσαι, ἵνα μήτε τὰ ἱερὰ τὰ πατρῶα ὑπὲρ ἐκείνου  
 μηδεὶς τιμᾶ μήτ'<sup>1</sup> ἐναγίζῃ αὐτῷ καθ' ἕκαστον  
 ἐνιαυτόν, ἀλλὰ ἀφαιρῇται<sup>2</sup> τὰς τιμὰς τὰς ἐκείνου·  
 ἃ προνοηθεὶς ὁ Μενεκλῆς, κύριος ὢν τῶν ἑαυτοῦ,  
 ἐποίησατο ὑὸν ἑαυτῷ, ἵνα τούτων ἀπάντων τυγ-  
 47 χάνῃ. μὴ οὖν, ὦ ἄνδρες, πεισθέντες ὑπὸ τούτων  
 ἀφέλησθέ μου τὸ ὄνομα, τῆς κληρονομίας ὃ ἔτι  
 μόνον λοιπόν ἐστιν,<sup>3</sup> ἄκυρον δὲ τὴν ποίησιν αὐτοῦ  
 καταστήσητε<sup>4</sup>. ἀλλ' ἐπειδὴ τὸ πρᾶγμα εἰς ὑμᾶς  
 ἀφίκται καὶ ὑμεῖς κύριοι γεγόνατε, βοηθήσατε καὶ  
 ἡμῖν καὶ ἐκείνῳ τῷ ἐν ᾿Αίδου ὄντι, καὶ μὴ περι-  
 ἰδῆτε, πρὸς θεῶν καὶ δαιμόνων δέομαι ὑμῶν,  
 προπηλακισθέντα αὐτὸν ὑπὸ τούτων, ἀλλὰ με-  
 μνημένοι τοῦ νόμου καὶ τοῦ ὅρκου ὃν ὁμωμόκατε  
 καὶ τῶν εἰρημένων ὑπὲρ τοῦ πράγματος, τὰ δίκαια  
 καὶ τὰ εὖορκα κατὰ τοὺς νόμους ψηφίσασθε.

<sup>1</sup> μήτ' Bremi: μὴδ'.

<sup>2</sup> ἀφαιρῇται Dobree: -εῖται.

<sup>3</sup> ἐστὶν Tyrwhitt; ἔσται.

<sup>4</sup> καταστήσητε edd.: καταστήσετε.

him in his lifetime and to have buried him when he died. My opponent wishes now to deprive me of my father's estate, whether it be large or small, and to render the deceased childless and nameless, so that there may be no one to honour in his place the family cults and perform for him the annual rites, but that he may be robbed of all his due honours. It was to provide against this that Menecles, being master of his own property, adopted a son, so that he might secure all these advantages.

Do not therefore, gentlemen, listen to my opponents and deprive me of my name, the sole remnant of my inheritance, and annul Menecles' adoption of me; but since the matter has come before you for judgement and you have the sovereign right of decision, come to the aid both of us and of him who is in the other world, and do not allow Menecles, by the gods and deities I beseech you, to be insulted by my opponents, but mindful of the law and of the oath which you have sworn and of the arguments which have been used in support of my plea, pass in accordance with the laws the verdict which is just and in conformity with your oath.



### III. ON THE ESTATE OF PYRRHUS

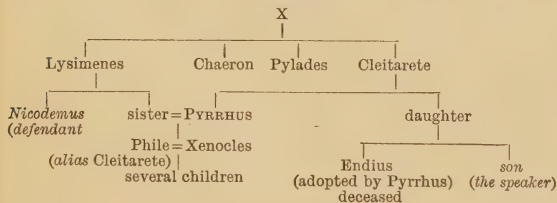


## INTRODUCTION

PYRRHUS <sup>a</sup> having adopted Endius, his sister's son, made a will leaving his property to him. On the death of Pyrrhus, Endius succeeded without question and, after having enjoyed the estate for twenty years, died without issue. Being an adopted son he had no right to dispose of the property, which on his decease passed by law to Pyrrhus's legal heir.

Two days after Endius's death the estate was claimed by one Xenocles on behalf of his wife, Phile, whom he asserted to be the legitimate daughter of Pyrrhus; he even appears to have attempted to seize a portion of the property. His claim was opposed by Endius's mother, whose name is not known to us, as being sister of Pyrrhus and therefore his next-of-kin. She is represented by her younger son. Xenocles thereupon put in a protestation (*διαμαρτυρία*) that the estate could not

### <sup>a</sup> STEMMMA



legally be claimed by Pyrrhus's sister, because Pyrrhus had left a legitimate daughter, and offered evidence that his wife's mother, the sister of a certain Nicodemus, had been legally married to Pyrrhus, and that Phile was the offspring of their union. A charge of perjury was successfully brought against Xenocles, with the result that the illegitimacy of Phile was established. In order still further to substantiate the claim of Pyrrhus's sister, her son brings a further action for perjury against Nicodemus, the brother of Phile's mother, who had supported Xenocles by bearing witness to his sister's marriage with Pyrrhus. The present speech, therefore, which was delivered on this occasion, though in effect concerned with the "Estate of Pyrrhus," might be more accurately described as "Against Nicodemus for perjury." The object of the speaker being to prove that the testimony of Nicodemus was false when he swore that he had given his sister in legal marriage to Pyrrhus, many of the arguments must be a repetition, before a new panel of judges, of those which had been employed in the earlier action against Xenocles.

The speech provides one of the best examples of the way in which the Attic orators used the topic of probability which Aristotle recommends as the basis of a rhetorical syllogism (*Rhet.* 1357 a 32 ff., 1376 a 18 ff.). Was it likely, the speaker asks, that Pyrrhus would have married Nicodemus's sister in view of her general mode of life and her conduct while she lived in Pyrrhus's house? Again, he urges, Nicodemus's account of his own action in the matter of the marriage contains inconsistencies which make it improbable: since he was marrying his sister to



## ON THE ESTATE OF PYRRHUS

a man of wealth, he would naturally have summoned as many reputable witnesses as possible ; instead of this he alleged the presence of only one witness, Pyretides, who subsequently denied that he had been present or had made any deposition to that effect. It is true that the three uncles of Pyrrhus declared that they were present at the ceremony ; but is it likely that they would have countenanced the marriage of their nephew to such a woman ? Again, their evidence disclosed the fact that no dowry was settled on the woman ; yet, even if Nicodemus had been unable to give her a portion, he would naturally have insisted on a contract in order to make a divorce more difficult. Obviously, the speaker urges, the uncles' evidence is worthless ; for example, they told a different story about the name given to the child, saying that she was called not Phile but Cleitarete, after her paternal grandmother. Again, Nicodemus would have insisted on a settlement, because, in event of his sister's death without issue, he would have become heir to any money which had been settled upon her. Supposing for a moment that his sister had been legally married to Pyrrhus and that consequently her child Phile was her father's heiress, why was no opposition offered when Endius succeeded to the estate of his adopted father, and why did not Nicodemus prosecute Endius when he gave Phile in marriage to Xenocles as the illegitimate daughter of Pyrrhus ? In fact all the parties concerned clearly showed by their acts that they regarded Phile as illegitimate ; Xenocles, by not claiming his wife's patrimony at Pyrrhus's death or during Endius's lifetime ; the uncles, by allowing Phile to marry Xenocles, since,

## ISAEUS

if she had been legitimate, the estate would have passed to her issue instead of to themselves ; and, lastly, Pyrrhus himself, by adopting Endius as his son, which he would not have done if he had had a legitimate daughter, and by his omission of the usual formality of introducing Phile to his fellow-wardsmen and so recognizing her as his legitimate child. The speaker concludes with a summary of his earlier arguments and by calling evidence to prove that Pyrrhus can never have married Nicodemus's sister, since he never offered a marriage feast to the members of his ward and never performed on her behalf the public services in his deme which his financial position would have entailed.

Thus, as has already been said, the whole argument is based upon probabilities, and the speaker seems to rely on the cumulative effect of frequent repetition to convince his hearers. On the other hand, the defence was obviously based on testimony, in particular, that of the uncles of Pyrrhus, who were hardly likely to have given evidence in favour of a marriage which was anything but creditable to their nephew, unless it had really taken place ; moreover they gave evidence not only of the marriage but also of the fact that Pyrrhus celebrated the naming-festival on the tenth day after Phile's birth, thus acknowledging the child as his own.

It would be interesting to know how the defence met the challenge of the prosecutor to explain, first, why Endius succeeded without question to the estate, and, secondly, the exact circumstances of Phile's marriage to Xenocles. Wyse (*op. cit.* p. 276) suggests that a clue is provided by the 10th Oration, where the speaker is arguing on the other side in

## ON THE ESTATE OF PYRRHUS

favour of an heiress, who, it is alleged, had been defrauded of her just rights by an iniquitous family compact, and whose husband was prevented from claiming the estate due to her by the fear that he would lose his wife, whose hand might be legally claimed by the next of kin. If a similar line of defence was adopted by the supporters of Phile, Endius would certainly have acted illegally, but the uncles and Nicodemus would also be blameworthy for allowing Phile to be the subject of such a bargain if they believed her to be the legitimate child of Pyrrhus.

There is no conclusive evidence of the date of the speech, but it is probably among the later works of Isaeus. The only indications are the mention of Diophantes of Sphettus and Dorotheus of Eleusis (§ 22). The former is probably the orator and politician, who is known to have survived until 343 B.C., when he was called as a witness by Demosthenes in the speech *De falsa legatione* ; Dorotheus is known from inscriptions to have been trierarch in 357/6 B.C. and to have owned property in Athens about 342 B.C. ([Dem.] *In Neaeram*, 39).

### III. ΠΕΡΙ ΤΟΥ ΠΥΡΡΟΥ ΚΛΗΡΟΥ

#### ΥΠΟΘΕΣΙΣ

[38] Πύρρου τὸν ἕτερον <τῶν> τῆς ἀδελφῆς υἱῶν υἰοποιησάμενου Ἐνδίου, καὶ τούτου πλεον ἢ εἴκοσιν ἔτη τὸν κλῆρον<sup>1</sup> κατασχόντος, εἴτα ἀποθανόντος, Ξενοκλῆς λαχὼν τῶν χρημάτων ὑπὲρ Φίλης, τῆς ἑαυτοῦ γυναικός, διεμαρτύρησεν εἶναι αὐτὴν γνησίαν Πύρρου θυγατέρα, ἀμφισβητούσης τοῦ κλήρου τῆς Ἐνδίου μητρός· καὶ ἑάλω ψευδομαρτυριῶν, Νικοδήμου καὶ αὐτοῦ μαρτυρήσαντος ἐγγυῆσαι Πύρρῳ τὴν ἀδελφὴν κατὰ τοὺς νόμους, ἐξ ἧς γεγενῆσθαι τὴν Φίλην. ὁ Ἐνδίου δὲ ἀδελφὸς νόθην εἶναί φησιν, ἐξ ἑταίρας Πύρρῳ γενομένην, καὶ οὕτως ὑπὸ Ἐνδίου ἐκδοθῆναι Ξενοκλεῖ. ἡ στάσις στοχασμός, τὸ δὲ ἔγκλημα ψευδομαρτυριῶν κατὰ τοῦ Νικοδήμου.

- 1 Ἄνδρες δικασταί, ὁ ἀδελφὸς τῆς μητρὸς τῆς ἐμῆς Πύρρος, ἅπαις ὧν γνησίων παίδων, ἐποιήσατο Ἐνδίου τὸν ἀδελφὸν τὸν ἐμὸν υἱὸν ἑαυτῷ· ὃς κληρονόμος ὧν τῶν ἐκείνου ἐπεβίω<sup>2</sup> πλείω ἔτη ἢ εἴκοσι, καὶ ἐν χρόνῳ τοσούτῳ ἔχοντος ἐκείνου τὸν κλῆρον οὐδεὶς πώποτε προσεποιήσατο οὐδ' ἠμφισβήτησε
- 2 τῆς κληρονομίας ἐκείνῳ. τελευτήσαντος δὲ τοῦ ἀδελφοῦ πέρυσιν, ὑπερβᾶσα τὸν τελευταῖον κληρονόμον, γνησία θυγάτηρ τοῦ ἡμετέρου θεοῦ ἦκει φάσκουσα εἶναι Φίλην, καὶ κύριος Ξενοκλῆς Κό-

<sup>1</sup> τὸν κλῆρον Aldus: τοῦ κλήρου.

<sup>2</sup> ἐπεβίω Naber: ἐβίω.

### III. ON THE ESTATE OF PYRRHUS

#### ARGUMENT

Pyrrhus had adopted one of his sister's two sons, Endius, who enjoyed the estate for more than twenty years and then died. Xenocles then sued for the property in the name of Phile, his wife, and declared upon oath that she was a legitimate daughter of Pyrrhus, the succession being claimed by Endius's mother. Xenocles was convicted of perjury. Nicodemus had also borne witness that he had given his daughter in legal marriage to Pyrrhus and that Phile was her child. The brother of Endius declares that Phile is illegitimate, having been the child of Pyrrhus by a mistress, and that she was given as such in marriage to Xenocles. The question at issue is one of fact, and the action a charge of perjury against Nicodemus.

Judges, my mother's brother, Pyrrhus, having no legitimate issue, adopted my brother Endius as his son. The latter inherited his estate and survived him by more than twenty years; and during all this long period of possession no one claimed the estate or questioned his right of inheritance. My brother having died last year, Phile, ignoring the existence of the last tenant, came forward, claiming to be the legitimate daughter of our uncle, and Xenocles of Coprus,<sup>a</sup> as her legal representative,

<sup>a</sup> A deme belonging to the tribe of Hippothontis. A scholiast on Aristophanes, *Equites* 899, states that it was an island off Attica.

πρειος<sup>1</sup> τοῦ Πύρρου κλήρου λαχεῖν τὴν λῆξιν  
 ἡξίωσεν, ὃς τετελεύτηκε<sup>2</sup> πλείω ἢ εἴκοσιν ἔτη, τρία  
 3 τάλαντα τίμημα τῷ κλήρῳ ἐπιγραψάμενος. ἀμφι-  
 σβητούσης δὲ τῆς μητρὸς τῆς ἡμετέρας, ἀδελφῆς δὲ  
 τοῦ Πύρρου, ὁ κύριος τῆς εἰληχυίας τοῦ κλήρου  
 γυναικὸς ἐτόλμησε διαμαρτυρῆσαι μὴ ἐπίδικον τῇ  
 ἡμετέρᾳ μητρὶ τὸν τοῦ ἀδελφοῦ κλῆρον εἶναι, ὥς  
 οὔσης γνησίας θυγατρὸς Πύρρῳ, οὗ ἦν ἐξ ἀρχῆς  
 ὁ κλῆρος. ἐπισκηψάμενοι<sup>3</sup> δὲ ἡμεῖς, καὶ εἰς  
 ὑμᾶς εἰσαγαγόντες τὸν διαμαρτυρῆσαι τολμήσαντα  
 4 [κατὰ] ταῦτα, ἐκείνόν τε ἐξελέγξαντες περιφανῶς  
 τὰ ψευδῇ μεμαρτυρηκότα τὴν τῶν ψευδομαρτυρίων<sup>4</sup>  
 δίκην εἴλομεν παρ' ὑμῖν, καὶ τουτονὶ Νικόδημον  
 παραχρήμα ἐξηλέγξαμεν ἐν τοῖς αὐτοῖς δικασταῖς  
 ἀναισχυντότατον τῇ μαρτυρίᾳ ὄντα ταύτῃ, ὃς γε  
 ἐτόλμησε μαρτυρῆσαι ἐγγυῆσαι τῷ θείῳ τῷ  
 ἡμετέρῳ τὴν ἀδελφὴν τὴν ἑαυτοῦ γυναῖκα εἶναι  
 5 κατὰ τοὺς νόμους. ὅτι μὲν οὖν καὶ ἐν τῇ προτέρᾳ  
 δίκῃ ἢ τούτου μαρτυρία ψευδῆς ἔδοξεν εἶναι, ὁ  
 τόθ' ἐαλωκὼς μάρτυς σαφέστατα τοῦτον ἐξελέγχει.  
 εἰ γὰρ μὴ ἐδόκει οὗτος τὰ ψευδῇ τότε μαρτυρῆσαι,  
 δῆλον ὅτι ἐκείνός τ' ἂν ἀποφυγὼν τὴν διαμαρ-  
 τυρίαν ἀπῆλθε, καὶ κληρονόμος ἂν τῶν τοῦ θείου  
 ἢ διαμαρτυρηθεῖσα γνησία θυγάτηρ εἶναι, ἀλλ' οὐκ  
 6 ἂν ἡ ἡμετέρα κατέστη μήτηρ. ἀλόντος δὲ τοῦ  
 μάρτυρος καὶ ἀποστάσης τοῦ κλήρου τῆς ἀμφι-

<sup>1</sup> Κόπρειος Wyse: κύπριος.

<sup>2</sup> τετελεύτηκε Baier: τετελευτήκει.

<sup>3</sup> ἐπισκηψάμενοι Taylor: ἐπισκεψ-.

<sup>4</sup> ψευδομαρτυρίων Wyse: -τύρων.

## ON THE ESTATE OF PYRRHUS, 2-6

demanded to be given possession of the estate of Pyrrhus, who had died more than twenty years before, having fixed the value of the estate at three talents. When our mother, the sister of Pyrrhus, claimed <sup>a</sup> the estate, the legal representative of the woman who was suing for the estate had the audacity to put in a protestation <sup>b</sup> that the estate was not adjudicable to our mother, because Pyrrhus, to whom it originally belonged, had a legitimate daughter. We denounced his protestation and brought before you the man who had the audacity to make it; and, having clearly convicted him of having given false evidence, we obtained from you a verdict for perjury against him. At the same time we convicted Nicodemus, the present defendant, before the same judges, of the most shameless lying in the evidence which he then gave, since he had the impudence to bear witness that he had given his sister in marriage to our uncle in the proper legal manner. That in the former trial Nicodemus's evidence was recognized as being false, the condemnation of the witness <sup>c</sup> on that occasion most clearly proves. For if the present defendant had not been recognized as having given false evidence, the other witness would have been acquitted in the suit about the protestation, and the woman whom the protestation affirmed to be my uncle's legitimate daughter would have been established as his heiress instead of our mother. But since the witness was convicted and the woman who claimed

<sup>a</sup> She claimed as sister of Pyrrhus, not as mother of Endius, in which capacity she had no title.

<sup>b</sup> For the meaning of *διαμαρτυρία* (protestation) see Oration II. Introduction, p. 37.

<sup>c</sup> *i.e.*, Xenocles.

## ISAEUS

σβητούσης γνησίας θυγατρὸς Πύρρῳ εἶναι, μεγάλη ἀνάγκη ἅμα καὶ τὴν τούτου μαρτυρίαν ἐαλωκέναι· περὶ γὰρ αὐτοῦ τούτου διαμαρτυρήσας τὴν τῶν ψευδομαρτυρίων<sup>1</sup> δίκην ἡγωνίζετο, πότερον ἐξ ἐγγυητῆς ἢ ἐξ ἐταίρας ἢ ἀμφισβητούσα τοῦ κλήρου τῷ θείῳ [γυναικὸς] εἶη· γνώσεσθε <δ' ><sup>2</sup> ἀκούσαντες καὶ ὑμεῖς τῆς τε ἀντωμοσίας τῆς ἡμετέρας καὶ τῆς τούτου μαρτυρίας καὶ τῆς ἀλούσης διαμαρτυρίας.  
7 ἀναγίγνωσκε λαβὼν τασδί αὐτοῖς.

ΑΝΤΩΜΟΣΙΑ.      ΜΑΡΤΥΡΙΑ.      ΔΙΑΜΑΡΤΥΡΙΑ.

Ὡς μὲν ἔδοξε παραχρῆμα εὐθὺς τότε <πᾶσι ><sup>3</sup> τὰ ψευδῇ μαρτυρῆσαι<sup>4</sup> Νικόδημος ἐπιδέδεικται [τότε πᾶσι]· προσήκει δὲ καὶ παρ' ὑμῖν τοῖς περὶ αὐτοῦ τούτου τὴν δίκην μέλλουσι ψηφιεῖσθαι ἐξελεχθῆναι  
8 τὴν τούτου μαρτυρίαν. ἐπιθυμῶ δὲ πρῶτον μὲν [περὶ αὐτοῦ τούτου] πυθέσθαι, ἣν τινά ποτε προῖκά φησιν ἐπιδούς ἐκδοῦναι τὴν ἀδελφὴν ὃ μεμαρτυρηκὼς τῷ τὸν τριτάλαντον οἶκον κεκτημένῳ, εἶτα πότερον ἢ ἐγγυητὴ γυνὴ ἀπέλιπε τὸν ἄνδρα ζῶντα ἢ τελευτήσαντος τὸν οἶκον αὐτοῦ, καὶ παρ' ὅτου ἐκομίσατο τὴν τῆς ἀδελφῆς προῖκα οὗτος, ἐπειδὴ τετελευτηκὼς ἦν ᾧ μεμαρτύρηκεν  
9 οὗτος αὐτὴν ἐγγυῆσαι, ἢ εἰ μὴ ἐκομίζετο, ὅποιαν δίκην σίτου ἢ τῆς προικὸς αὐτῆς ἐν εἴκοσιν ἔτεσι

<sup>1</sup> ψευδομαρτυρίων Wyse: -τύρων.

<sup>2</sup> δ' add. Aldus.

<sup>3</sup> πᾶσι add. Roussel.

<sup>4</sup> μαρτυρῆσαι Reiske: διαμαρτ-.

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<sup>a</sup> The term ἀντωμοσία was given to the "counter-oaths" taken by the contending parties at the preliminary hearing in support of their respective declarations.



## ON THE ESTATE OF PYRRHUS, 6-9

to be Pyrrhus's legitimate daughter abandoned her pretensions to the estate, it follows by absolute necessity that Nicodemus's evidence has been also condemned; for, having solemnly sworn to the truth of the same proposition, he was a party to the action for perjury which was to decide whether the woman who claimed my uncle's estate was the issue of a legitimate wife or of a mistress. You, too, will realize that this is so when you have heard our affidavit,<sup>a</sup> the evidence of Nicodemus, and the protestation which was overruled. Please take and read these documents to the court.

### AFFIDAVITS. EVIDENCE. PROTESTATION

It has now been shown that it was immediately apparent to all at the time that Nicodemus committed perjury; but it is proper that the falsity of his evidence should be proved before you also who are about to give your verdict on this very issue. But I desire first to ask some questions. He has deposed that he married his sister to a man who possessed a fortune of three talents; what dowry does he allege that he gave with her? Next, did this wedded wife leave her husband during his lifetime or quit his house after his death? <sup>b</sup> And from whom did the defendant recover his sister's dowry after the death of him to whom he has deposed that he gave her in marriage? Or, if he did not recover it, what action did he think fit to institute

<sup>b</sup> A widow might either remain in her late husband's house, if there were no children, or return to the house of her legal representative (κύριος), and, through him, obtain the return of her dowry or the payment of interest upon it for her maintenance.

- [39] τῷ ἔχοντι τὸν | κλῆρον δικάσασθαι ἡξίωσεν,<sup>1</sup> ἢ εἰ τοῦ ἀνθρώπων ἐναντίον προσῆλθεν ἐγκαλῶν τῷ κληρονόμῳ περὶ τῆς προικὸς τῆς ἀδελφῆς ἐν χρόνῳ τοσοῦτῳ. περὶ τε οὖν τούτων ἡδέως ἂν πυθοίμην, ὃ τι ποτ' ἦν τὸ αἴτιον τοῦ μηδὲν τούτων γεγενῆσθαι περὶ τῆς ἐγγυητῆς (ὥς μεμαρτύρηκεν οὗτος) γυναι-
- 10 κός, καὶ πρὸς τούτοις εἰ τις ἄλλος ἐγγυητὴν ἔσχε τὴν τούτου ἀδελφὴν γυναῖκα, ἢ τῶν πρότερον χρησαμένων πρὶν γνῶναι τὸν ἡμέτερον θεῖον αὐτὴν, ἢ ὅσοι ἐκείνου γιγνώσκοντος ἐπλησίαζον αὐτῇ, ἢ ὅσοι ὕστερον ἐπλησίαζον τετελευτηκότος ἐκείνου· δῆλον γὰρ ὅτι τὸν αὐτὸν τρόπον ὁ ἀδελφὸς αὐτὴν
- 11 ἅπασιν τοῖς πλησιάζουσιν ἐκδέδωκεν.<sup>2</sup> περὶ ὧν εἰ δεήσειε καθ' ἕκαστον διελθεῖν, οὐκ ἂν πάννυ μικρὸν ἔργον γένοιτο. εἰ μὲν οὖν ὑμεῖς κελεύετε, περὶ ἐνίων μνησθεῖν ἂν αὐτῶν· εἰ δέ τισιν ὑμῶν ἀηδὲς ἀκούειν ἐστίν, ὥσπερ ἐμοὶ λέγειν τι περὶ τούτων, αὐτὰς τὰς μαρτυρίας ὑμῖν παρέξομαι τὰς μαρτυρηθείσας ἐν τῇ προτέρᾳ δίκῃ, ὧν οὐδεμιᾷ ἐπισκήψασθαι ἡξίωσαν οὗτοι. καίτοι ὅπου κοινὴν αὐτοῖς<sup>3</sup> ὡμολογήκασιν εἶναι τοῦ βουλομένου τὴν γυναῖκα, πῶς ἂν εἰκότως ἢ αὐτὴ γυνὴ ἐγγυητὴ δόξειεν
- 12 εἶναι; ἀλλὰ μὴν ὁπότε μὴ ἐπεσκημμένοι εἰσὶ ταῖς περὶ αὐτοῦ τούτου μαρτυρίαις, ὡμολογηκότες εἰσὶ ταῦτα. ἀκούσαντες δὲ καὶ ὑμεῖς αὐτῶν τῶν μαρτυριῶν, γνῶσεσθε ὥς οὗτός τε περιφανῶς τὰ ψευδῇ μεμαρτύρηκε, καὶ ὀρθῶς καὶ κατὰ τοὺς νόμους οἱ δικάσαντες τὴν δίκην ἔγνωσαν τὴν

<sup>1</sup> ἡξίωσεν Reiske: -σαν.

<sup>2</sup> ἐκδέδωκεν Reiske: ἐδεδώκει.

<sup>3</sup> αὐτοῖς Schoemann: αὐτὴν.

## ON THE ESTATE OF PYRRHUS, 9-12

to obtain her maintenance or the restitution of her dowry against the man who was for twenty years the tenant of the estate? Or did he ever, during all that long period, go and make any claim upon the heir regarding his sister's dowry in the presence of any witness? I should be glad to learn what was the reason why none of these steps has been taken in favour of a woman, who, according to the defendant's evidence, was legally married. Furthermore, has anyone else taken this man's sister in legal marriage, either of those who had dealings with her before she knew our uncle, or of those who associated with her during his acquaintance with her, or of those who did so after his decease? For it is clear that her brother has given her in marriage on the same terms to all those associated with her. If it were necessary to enumerate all these persons one by one, it would amount to no small a task. If you bid me do so, I would mention some of them; but if it is as unpleasant to some of you to hear as it is to me to mention such matters, I will content myself with producing the actual depositions made at the previous trial, none of which they thought fit to contest. Yet when once they have themselves admitted that the woman was at the disposal of anyone who wished to take her, how can it be reasonably conceived that she was also a wedded wife? And indeed, since they have never impeached the evidence on this very point, they have in fact admitted all this. You, too, when you have heard the actual depositions, will understand that the defendant has obviously borne false witness, and that those who judged the case gave a proper and a legal sentence when they

## ISAEUS

κληρονομίαν μὴ προσήκειν τῇ μὴ ὀρθῶς γεγεννημένη γυναικί. ἀναγίγνωσκε. σὺ δ' ἐπίλαβε<sup>1</sup> τὸ ὕδωρ.

### ΜΑΡΤΥΡΙΑ<Ι>

- 13 Ὡς μὲν ἐταίρα ἦν τῷ βουλομένῳ καὶ οὐ γυνὴ τοῦ ἡμετέρου θείου, ἣν οὗτος ἐγγυῆσαι ἐκείνῳ μεμαρτύρηκεν, ὑπὸ τῶν ἄλλων οἰκείων καὶ ὑπὸ τῶν γειτόνων τῶν ἐκείνου μεμαρτύρηται πρὸς ὑμᾶς· οἱ μάχας καὶ κώμους καὶ ἀσέλγειαν πολλήν, ὅποτε ἡ τούτου ἀδελφὴ εἶη παρ' αὐτῷ, μεμαρτυρήκασιν  
14 γίγνεσθαι περὶ αὐτῆς. καίτοι οὐ δὴ πού γε ἐπὶ γαμετὰς γυναικας οὐδεὶς ἂν κωμάζειν τολμήσειεν· οὐδὲ αἱ γαμεταὶ γυναικες ἔρχονται μετὰ τῶν ἀνδρῶν ἐπὶ τὰ δεῖπνα, οὐδὲ συνδειπνεῖν ἀξιούσι μετὰ τῶν ἄλλοτρίων, καὶ ταῦτα μετὰ τῶν ἐπιτυχόντων. ἀλλὰ μὴν τῶν γε μεμαρτυρηκότων οὐδενὶ<sup>2</sup> ἐπισκῆψασθαι οὗτοι ἠξίωσαν. καὶ ὥς ἀληθῆ λέγω, ἀναγίγνωσκε πάλιν αὐτοῖς τὴν μαρτυρίαν.

### ΜΑΡΤΥΡΙΑ

- 15 Ἀνάγνωθι δὴ καὶ τὰς περὶ τῶν πλησιασάντων αὐτῇ μαρτυρίας, ἵνα εἰδῶσιν ὅτι ἐταίρα τε ἦν τοῦ βουλομένου, καὶ ὅτι οὐδ' ἐξ ἐνὸς ἄλλου φαίνεται τεκοῦσα. ἀναγίγνωσκε αὐτοῖς.

### ΜΑΡΤΥΡΙΑ<Ι>

- 16 Ὡς μὲν τοίνυν ἦν κοινὴ τῷ βουλομένῳ, ἣν οὗτος ἐγγυῆσαι τῷ ἡμετέρῳ θείῳ μεμαρτύρηκε, μνη-

<sup>1</sup> ἐπίλαβε Scaliger: ἐπίβαλλε.

<sup>2</sup> τῶν γε μεμαρτυρηκότων οὐδενὶ Dobree: τῷ γε μεμαρτυρηκότι οὐδ'.

## ON THE ESTATE OF PYRRHUS, 12-16

decided that the estate could not pass to a woman of irregular birth. Read the depositions ; and you, please stop the water-clock.

### DEPOSITIONS

That the woman, whom the defendant has deposed that he gave in legal marriage to our uncle, was a courtesan who gave herself to anyone and not his wife, has been testified to you by the other acquaintances and by the neighbours of Pyrrhus, who have given evidence of quarrels, serenades, and frequent scenes of disorder which the defendant's sister occasioned whenever she was at Pyrrhus's house. Yet no one, I presume, would dare to serenade a married woman, nor do married women accompany their husbands to banquets or think of feasting in the company of strangers, especially mere chance comers. Yet, our adversaries did not think fit to make any protest against the evidence of any of those who testified to these things. And to prove that what I say is true, read the deposition to them again.

### DEPOSITION

Now read the depositions about those who associated with her, so that the judge may realize that she was a courtesan at anyone's disposal and that she certainly never bore a child to any other man.<sup>a</sup>

### DEPOSITIONS

I beg you then to bear in mind the number of persons who have given evidence that this woman, whom the defendant has deposed that he gave in

<sup>a</sup> An innuendo that Phile was perhaps a supposititious child.

- μονεύειν χρή ὑφ' ὅσων ὑμῖν μεμαρτύρηται, καὶ ὅτι οὐδενὶ ἄλλῳ ἐγγυηθεῖσα οὐδὲ συνοικήσασα φαίνεται· σκεψώμεθα δὲ καὶ ἐξ ὧν ἂν τις ὑπονοήσειεν ἐγγύην γενέσθαι τοιαύτης γυναικός, εἰ ἄρα καὶ τῷ
- 17 ἡμετέρῳ θείῳ τοιοῦτόν τι συμβέβηκεν. ἤδη γάρ τινες νέοι ἄνθρωποι ἐπιθυμήσαντες τοιούτων γυναικῶν, καὶ ἀκρατῶς ἔχοντες αὐτῶν, ἐπείσθησαν ὑπ' ἀνοίας εἰς αὐτοὺς<sup>1</sup> τοιοῦτόν τι ἐξαμαρτεῖν. πόθεν οὖν ἂν τις σαφέστερον γνοίῃ περὶ τούτων, ἢ ἔκ τε τῶν μαρτυριῶν τῶν τούτοις μεμαρτυρημένων ἐν τῇ προτέρᾳ δίκῃ καὶ ἐκ τῶν εἰκότων τῶν
- 18 περὶ αὐτὸ τὸ πρᾶγμα σκεψάμενος; ἐνθυμείσθε δὲ τὴν ἀναίδειαν ὧν λέγουσιν. ὁ μὲν γὰρ ἐγγυνᾶν μέλλων εἰς τὸν τριτάλαντον οἶκον, ὥς φησι, τὴν ἀδελφήν, διαπραττόμενος τηλικάυτα<sup>2</sup> ἓνα μάρτυρα παρεῖναι αὐτῷ Πυρετίδην προσεποιήσατο, καὶ τούτου ἐκμαρτυρίαν ἐπ' ἐκείνῃ τῇ δίκῃ παρέσχοντο οὗτοι· ἦν Πυρετίδης οὐκ ἀναδέδεκται αὐτοῖς, οὐδὲ ὁμολογεῖ μαρτυρῆσαι οὐδὲ εἰδέναι τούτων ἀληθές
- 19 ὃν οὐδέν. μέγα δὲ τεκμήριον ὥς περιφανῶς ψευδῇ τὴν μαρτυρίαν οὗτοι παρέσχοντο ταύτην· ἴστε γὰρ πάντες ὥς ὅταν μὲν ἐπὶ προδήλους πράξεις ἴωμεν, ἃς δεῖ μετὰ μαρτύρων γενέσθαι, τοὺς οἰκειοτάτους
- [40] | καὶ οἷς ἂν τυγχάνωμεν χρώμενοι μάλιστα, τούτους παραλαμβάνειν εἰώθαμεν ἐπὶ τὰς πράξεις τὰς τοιαύτας, τῶν δὲ ἀδήλων καὶ ἐξαίφνης γιγνομένων τοὺς προστυχόντας ἕκαστοι μάρτυρας ποιοῦμεθα.

<sup>1</sup> αὐτοὺς Reiske: αὐτὰς.    <sup>2</sup> τηλικάυτα Taylor: τηνικάυτα.

<sup>a</sup> When a witness was ill or abroad, his evidence, duly attested, might be submitted in writing.

marriage to our uncle, was common to all who wished to associate with her, and that she obviously was never married to or lived permanently with anyone else. Let us next consider the circumstances in which it might be conceived that a marriage with such a woman might take place, supposing that such a thing really did happen to our uncle ; for young men before now, having fallen in love with such women and, being unable to control their passion, have been induced by folly to ruin themselves in this way. How then can one obtain a clearer knowledge as to what happened than by a consideration of the evidence submitted in favour of our opponents in the former trial and the probabilities of the case itself ? Now consider the impudence of their assertions. The man, who was, according to his own account, about to marry his sister to a man with a fortune of three talents, when he was arranging a matter of such importance, represents that only one witness was present on his behalf, namely, Pyretides, whose written deposition <sup>a</sup> was produced by the other side in the previous trial. This deposition Pyretides has disavowed and refuses to admit that he made any deposition or has any knowledge of the truth of any of the facts which it contains. We have here a striking indication that this deposition produced by our opponents is certainly forged. You all know that, when we are proceeding to a deliberate act which necessitates the presence of witnesses, we habitually take with us our closest acquaintances and most intimate friends as witnesses of such acts ; but of unforeseen acts carried out on the spur of the moment, we always call in the testimony of any chance persons.



- 20 καὶ ἐπὶ μὲν ταῖς μαρτυρίαις αὐταῖς τοῖς παρα-  
γενομένοις αὐτοῖς, ὅποιοί τινες ἂν ᾧσι, τούτοις  
μάρτυσι χρῆσθαι ἀναγκαῖόν ἐστιν ἡμῖν· παρὰ δὲ  
τῶν ἀσθενούντων ἢ τῶν ἀποδημεῖν μελλόντων ὅταν  
τις ἐκμαρτυρίαν ποιῇται, τοὺς ἐπιεικεστάτους τῶν  
πολιτῶν καὶ τοὺς ἡμῖν γνωριμωτάτους ἕκαστος  
21 ἡμῶν παρακαλεῖ μάλιστα, καὶ οὐ<sup>1</sup> μεθ' ἐνὸς οὐδὲ  
μετὰ δυοῖν, ἀλλ' ὥς ἂν μετὰ πλείστων δυνώμεθα  
τὰς ἐκμαρτυρίας πάντες ποιούμεθα, ἵνα τῷ τε  
ἐκμαρτυρήσαντι μὴ ἐξείη ὕστερον ἐξάρνω γενέσθαι  
τὴν μαρτυρίαν, ὑμεῖς τε πολλοῖς καὶ καλοῖς κἀγα-  
22 θοῖς ταῦτα<sup>2</sup> μαρτυροῦσι πιστεύετε<sup>3</sup> μᾶλλον. Ξενο-  
κλῆς τοίνυν Βῆσαζε μὲν ἰὼν εἰς τὸ ἐργαστήριον τὸ  
ἡμέτερον εἰς τὰ ἔργα, οὐχ ἡγήσατο δεῖν τοῖς ἀπὸ  
τοῦ αὐτομάτου ἐκεῖ ἐντυχοῦσι μάρτυσι χρῆσθαι  
περὶ τῆς ἐξαγωγῆς, ἀλλ' ἦκεν ἔχων ἐνθένδε<sup>4</sup>  
Διόφαντον τὸν Σφήττιον μεθ' ἑαυτοῦ, ὃς ἔλεγε τὴν  
δίκην ὑπὲρ τούτου, καὶ Δωρόθεον τὸν Ἐλευσίνιον  
καὶ τὸν ἀδελφὸν αὐτοῦ Φιλοχάρη καὶ ἄλλους  
πολλοὺς μάρτυρας, παρακεκληκῶς ἐνθένδε σταδίους  
23 ἐγγὺς<sup>5</sup> τριακοσίους ἐκείσε· περὶ δὲ τῆς ἐγγύης τῆς  
τήθης τῶν παίδων τῶν ἑαυτοῦ ἐν τῷ ἄστει ἐκ-  
μαρτυρίαν (ὥς φησι) ποιούμενος τῶν μὲν οἰκείων  
οὐδένα τῶν ἑαυτοῦ παρακεκληκῶς φαίνεται, Διο-  
νύσιον δὲ <τὸν><sup>6</sup> Ἐρχιέα καὶ [τὸν] Ἀριστόλοχον τὸν  
Αἰθαλίδην· μετὰ δυοῖν τούτων ἐν τῷ ἄστει αὐτοῦ τὴν  
ἐκμαρτυρίαν ποιήσασθαί φασιν οὗτοι,—τοιαύτην<sup>7</sup>

<sup>1</sup> οὐ Bekker: οὐδὲ.

<sup>2</sup> ταῦτα Muretus: ταῦτα.

<sup>3</sup> πιστεύετε Dobree: πιστεύετε.

<sup>4</sup> ἐνθένδε Bekker: ἐνθεν.

<sup>5</sup> ἐγγὺς Dobree: εὐθὺς.

<sup>6</sup> τὸν add. Dobree.

<sup>7</sup> τοιαύτην Thalheim: τοιαῦτα.

<sup>a</sup> Besa is situated in the extreme south of Attica near



## ON THE ESTATE OF PYRRHUS, 20-23

When direct evidence has to be given in court, we are obliged to employ those who were actually present, whosoever they are, as witnesses; but when it is a question of obtaining a written deposition from a witness who is ill or about to go abroad, each of us summons by preference the most reputable among his fellow-citizens and those best known to us, and we always have written depositions made in the presence not of one or two only but of as many witnesses as possible, in order to preclude the deponent from denying his deposition at some future date, and to give his evidence more weight in your eyes by the unanimous testimony of many honest men. Thus, when Xenocles went to our factory at Besa,<sup>a</sup> he did not think it sufficient to rely on any chance person who happened to be there as witness regarding the eviction, but took with him from Athens Diophantus of Sphettus, who defended him in the former case, and Dorotheus of Eleusis,<sup>b</sup> and his brother Philochares, and many other witnesses, having invited them to make a journey of nearly three hundred stades from here to there; yet when, on the question of the marriage of the grandmother of his own children, he was obtaining, as he declares, a written deposition in Athens itself, he is shown to have summoned none of his own friends but Dionysius of Erchia and Aristolochus of Aethalidae. In the presence of these two men my opponents declare that they obtained the written

Laurium. It appears that the estate of Pyrrhus included a factory at Besa and that Xenocles proceeded thither after the death of Pyrrhus in order to take possession of it: knowing that he would be forcibly prevented from doing so, he took with him witnesses of his eviction.

<sup>b</sup> See Introduction, p. 75.

- μετὰ<sup>1</sup> τούτων· οἷς οὐδ' ἂν περὶ ὁτιοῦν πιστεύσειεν  
 24 ἄλλος οὐδεὶς. ἴσως γὰρ ἦν νῆ Δία πάρεργον καὶ  
 φαῦλον, περὶ οὗ τὴν ἐκμαρτυρίαν παρὰ τοῦ Πυρε-  
 τίδου φασὶ ποιήσασθαι οὗτοι, ὥστε οὐδὲν θαυμα-  
 στὸν ὀλιγωρηθῆναι ἦν τὸ πρᾶγμα. καὶ πῶς; οἷς  
 γε<sup>2</sup> περὶ αὐτοῦ τούτου ὁ ἀγὼν ἦν ὁ τῶν ψευδο-  
 μαρτυρίων, ὃν Ξενοκλῆς ἔφευγεν, ἢ ἐξ ἐταίρας ἢ  
 ἐξ ἐγγυητῆς τὴν ἑαυτοῦ γυναιῖκα εἶναι. εἶτα ἐπὶ  
 ταύτην ἂν τὴν μαρτυρίαν, εἰ ἦν ἀληθής, οὐκ ἂν  
 ἅπαντας τοὺς οἰκείους τοὺς ἑαυτοῦ παρακαλεῖν  
 25 ἐκεῖνος ἠξίωσεν; ναὶ μὰ Δία, ὡς ἔγωγε ὤμην, εἴ  
 γε ἦν ἀληθὲς τὸ πρᾶγμα. οὐ τοίνυν φαίνεται,  
 ἀλλ' ὁ μὲν Ξενοκλῆς πρὸς τοὺς ἐπιτυχόντας δύο  
 ἐκμαρτυρησάμενος τὴν μαρτυρίαν ταύτην, Νικό-  
 δημος δὲ οὕτοσι<sup>3</sup> ἓνα μόνον μάρτυρα παρακαλέσας  
 μεθ' ἑαυτοῦ τῷ τὸν τριτάλαντον οἶκον κεκτημένῳ  
 26 ἐγγυῆσαί φησι τὴν ἀδελφὴν. καὶ οὗτος μὲν τὸν  
 Πυρετίδην μόνον, οὐχ ὁμολογοῦντα, προσεποιήσατο  
 μεθ' ἑαυτοῦ<sup>4</sup> παραγενέσθαι· ὑπὸ δὲ τοῦ ἐγγυή-  
 σασθαι μέλλοντος τὴν τοιαύτην Λυσιμένης καὶ οἱ  
 ἀδελφοὶ αὐτοῦ, Χαίρων καὶ Πυλάδης, φασὶ παρα-  
 κληθέντες τῇ ἐγγύῃ παραγενέσθαι, καὶ ταῦτα θεῖοι  
 27 ὄντες τῷ ἐγγνωμένῳ. ὑμέτερον οὖν ἔργον σκέψα-  
 σθαι νῦν, εἰ δοκεῖ πιστὸν εἶναι τὸ πρᾶγμα. ἐγὼ  
 μὲν γὰρ νομίζω, ἐκ τῶν εἰκότων σκοπούμενος,  
 πολὺ ἂν μᾶλλον τὸν Πύρρον πάντας ἂν τοὺς  
 οἰκείους βούλεσθαι λεληθέναι, εἴ τι παρεσκευάζετο  
 ὁμολογεῖν ἢ πράττειν ἀνάξιον τῶν αὐτοῦ, ἢ παρα-

<sup>1</sup> μετὰ Dobree: μὲν τὰ.

<sup>2</sup> οἷς γε Meutzner: ὥστε.

<sup>3</sup> οὕτοσι Dobree: οὗτος ἦν.

<sup>4</sup> μεθ' ἑαυτοῦ scripsi, cf. 25. 6: μετ' αὐτοῦ.

deposition—a document of this nature in the presence of men whom no one else would trust in any matter whatsoever ! Perhaps it will be urged that it was a trifling matter of secondary importance about which they say that they obtained the deposition from Pyretides, so that negligence in the affair was not surprising. How so, when the trial for perjury, in which Xenocles was defendant, turned upon this very point, as to whether his own wife was the child of a concubine or of a legitimate wife ? To attest a deposition like this, if it were really true, would he not have thought fit to summon all his own friends ? Most assuredly he would have done so, I should have thought, if the deposition had been genuine. We see then that he did not do so, but took this deposition before two chance witnesses ; Nicodemus, however, the present defendant, says that, when he married his sister to a man with a fortune of three talents, he summoned only a single witness to accompany him ! He pretends that the only person present with him was Pyretides, who denies his assertion ; on the other hand, Lysimenes and his brothers, Chaeron and Pylades, declare that they were summoned by Pyrrhus when he was about to make this brilliant match and were present at the ceremony, in spite of the fact that they were uncles of the bridegroom. It is a matter for you to consider now whether their story seems to be credible. It appears to me, judging from probabilities, that Pyrrhus would have been much more likely to wish to keep the matter secret from all his friends, if he was meditating the making of a contract or the commission of an act discreditable to his family, rather than summon his

καλέσαι μάρτυρας τοὺς θεῖους τοὺς ἑαυτοῦ ἐπὶ ἀμάρτημα τηλικούτον.

28 Ἔτι δὲ καὶ περὶ ἐκείνου θαυμάζω, εἰ μηδεμίαν προῖκα μήθ' ὁ διδοὺς μήθ' ὁ λαμβάνων διωμολογήσαντο ἔξω ἐπὶ τῇ γυναικί. τοῦτο μὲν γὰρ εἴ τινα ἐδίδου, εἰκὸς ἦν καὶ τὴν δοθεῖσαν ὑπὸ τῶν παραγενέσθαι φασκόντων μαρτυρεῖσθαι· τοῦτο δ' εἰ δι' ἐπιθυμίαν τὴν ἐγγύην ὁ θεῖος ἡμῶν ἐποιεῖτο τῆς τοιαύτης γυναικός, δῆλον ὅτι καὶ ἀργύριον πολλῶ μᾶλλον [ἢ] ὁ ἐγγυῶν διωμολογήσατο ἔχειν αὐτὸν ἐπὶ τῇ γυναικί, ἵνα μὴ ἐπ' ἐκείνῳ γένοιτο ῥαδίως ἀπαλλάττεσθαι, ὅποτε βούλοιτο, τῆς γυναικός.

29 καὶ μάρτυράς γε πολλῶ πλείους <εἰκὸς><sup>1</sup> ἦν τὸν ἐγγυῶντα παρακαλεῖν ἢ τὸν ἐγγυώμενον τὴν τοιαύτην· οὐδεὶς γὰρ ὑμῶν ἀγνοεῖ ὅτι ὀλίγα διαμένειν εἴωθε τῶν τοιούτων. ὁ μὲν τοίνυν ἐγγυῆσαι φάσκων μετὰ ἑνὸς μάρτυρος καὶ ἄνευ ὁμολογίας |

[41] προικὸς εἰς τὸν τριτάλαντον οἶκον ἐγγυῆσαι φησι τὴν ἀδελφὴν· οἱ δὲ θεῖοι τῷ ἀδελφιδῷ ἄπροικον τὴν τοιαύτην ἐγγυωμένῳ μεμαρτυρήκασι παραγενέσθαι.

30 Καὶ οἱ αὐτοὶ θεῖοι οὗτοι ἐν τῇ δεκάτῃ τῆς θυγατρὸς ἀποφανθείσης εἶναι ὑπὸ τοῦ ἀδελφιδοῦ κληθέντες μεμαρτυρήκασι παραγενέσθαι. ἐφ' ᾧ δὴ καὶ δεινῶς ἀγανακτῶ, ὅτι ὁ μὲν ἀνὴρ λαγχάνων ὑπὲρ τῆς γυναικὸς τῆς αὐτοῦ τοῦ κλήρου

<sup>1</sup> εἰκὸς add. Reiske.

<sup>a</sup> The legal contract involved by the bestowal of a dowry constituted the most important proof of the legal character of the union.

<sup>b</sup> i.e., the ceremony of naming the child.

## ON THE ESTATE OF PYRRHUS, 27-30

own uncles as witnesses of so outrageous an act of folly.

Another matter which surprises me is that there was no agreement about a dowry for the woman on the part either of him who gave her or of him who took her in marriage.<sup>a</sup> For, on the one hand, if Nicodemus gave a dowry, it would have been only natural that the amount of the dowry should be mentioned in the evidence of those who allege that they were present; on the other hand, if our uncle, under the influence of his passion, contracted a marriage with a woman of this character, clearly he who gave her in marriage would have been all the more careful to procure an agreement from the other party stating that he received money with her, so that it might not be in the latter's power easily to get rid of the woman whenever he wished. Also, it is probable that he who gave her in marriage would have summoned many more witnesses than the man who was marrying such a woman; for you all know that such unions are very seldom permanent. The man, then, who alleges that he gave his sister in marriage, declares that he married her to a man with a fortune of three talents without any agreement about a dowry, and the uncles have given evidence that they were present as witnesses on behalf of their nephew when he married a woman of this character without a dowry.

These same uncles have deposed that they were present by invitation of their nephew at the tenth-day ceremony<sup>b</sup> in honour of the child who was declared to be his daughter. Here I note with the utmost indignation that the husband, in claiming her paternal inheritance on behalf of his wife, has

- τοῦ πατρῷου Φίλῃν ὄνομα εἶναι ἐπεγράψατο<sup>1</sup> τῇ  
 γυναικί, οἱ δὲ τοῦ Πύρρου θεῖοι ἐν τῇ δεκάτῃ  
 φασκοντες παραγενέσθαι τὸ τῆς τήθης ὄνομα  
 Κλειταρέτην τὸν πατέρα ἐμαρτύρησαν θέσθαι  
 31 αὐτῇ. θαυμάζω οὖν εἰ ὁ ἀνὴρ ὁ συνοικῶν πλείω ἢ  
 ὀκτὼ ἔτη ἤδη μὴ ᾔδει τοῦτομα τῆς ἑαυτοῦ γυναικός.  
 εἶτα οὐδὲ παρὰ τῶν αὐτοῦ μαρτύρων πρότερον  
 ἐδυνήθη πυθέσθαι, οὐδ' ἢ μήτηρ τῆς γυναικὸς τὸ  
 τῆς θυγατρὸς ὄνομα τῆς αὐτῆς ἐν χρόνῳ τοσούτῳ  
 32 ἔφρασεν αὐτῷ, οὐδ' ὁ θεῖος αὐτός, Νικόδημος; ἀλλ'  
 ἀντὶ τοῦ τῆς τήθης ὀνόματος, εἴ τις ᾔδει τοῦθ' ὑπὸ  
 τοῦ πατρὸς κείμενον ταύτῃ,<sup>2</sup> Φίλῃν ὁ ἀνὴρ ὄνομα  
 ἐπεγράψατο εἶναι αὐτῇ, καὶ ταῦτα λαγχάνων αὐτῇ  
 τοῦ κλήρου τοῦ πατρῷου. τίνος ἕνεκα; ἢ ἵνα καὶ  
 τοῦ τῆς τήθης ὀνόματος τοῦ ὑπὸ τοῦ πατρὸς τεθέν-  
 τος ἄκληρον ὁ ἀνὴρ καταστήσειεν εἶναι τὴν αὐτοῦ  
 33 γυναῖκα; ἀρά γε οὐχὶ δῆλον, ὦ ἄνδρες, ὅτι ἂ  
 πάλοι οὗτοι μαρτυροῦσι γενέσθαι, πολλῷ ὕστερον<sup>3</sup>  
 τῆς λήξεως τοῦ κλήρου <ἕνεκα><sup>4</sup> σύγκειται αὐτοῖς;  
 οὐ γὰρ ἂν ποτε οἱ μὲν εἰς τὴν δεκάτην (ὥς φασι)  
 κληθέντες τῆς τοῦ Πύρρου θυγατρὸς, ἀδελφιδῆς  
 τούτου, ἐξ ἐκείνης τῆς ἡμέρας, ἥτις ἦν ποτε,  
 ἀκριβῶς εἰς τὸ δικαστήριον ἦκον μεμνημένοι ὅτι  
 34 Κλειταρέτην ὁ πατὴρ ἐν τῇ δεκάτῃ ὠνόμηνεν, οἱ δ'  
 οἰκειότατοι τῶν ἀπάντων, ὁ πατὴρ καὶ ὁ θεῖος καὶ  
 ἢ μήτηρ οὐκ ἂν ᾔδει τὸ ὄνομα τῆς θυγατρὸς, ὥς  
 φασι, τῆς αὐτοῦ. πολὺ γε μάλιστ' ἂν, εἰ ἦν

<sup>1</sup> ἐπεγράψατο Dobree: ἐγράψατο.

<sup>2</sup> ταύτῃ Bekker: ταύτην.

<sup>3</sup> ὕστερον Reiske: πλέον.

<sup>4</sup> ἕνεκα add. dub. Wyse.

put down her name as Phile, while Pyrrhus's uncles, alleging that they were present, deposed that her father called her Cleitarete, after her grandmother. I am amazed that the man who had lived with her for more than eight years did not know the name of his own wife. Could he not have found it out before from his own witnesses? Did his wife's mother never in all that long period tell him her daughter's name? Did his uncle, Nicodemus himself, never do so? No, her husband, instead of giving her her grandmother's name—if it was really known that this name was given her by her father—inscribed her name as Phile, and this when he was claiming the paternal inheritance for her! What was his object? Did the husband wish to deprive his wife of any title to the name of her grandmother bestowed upon her by her father? Is it not obvious, gentlemen, that the events which they deposed to have happened long ago were invented by them much later for the purpose of claiming the estate? <sup>a</sup> For otherwise it would have been impossible that the uncles, who were summoned, according to their own account, to the tenth-day ceremony in honour of Pyrrhus's daughter, the defendant's niece, could ever have come into court with so accurate a recollection from that distant date, whenever it was, that her father at that ceremony named her Cleitarete, but that the nearer relatives, the father and the uncle and the mother should not know the name of the child whom they declare to be Pyrrhus's daughter. They would

<sup>a</sup> The restoration of the text here is uncertain but the meaning clear.



ἀληθὲς τὸ πρᾶγμα. ἀλλὰ περὶ μὲν τούτων καὶ ὕστερον ἐγχωρήσει εἰπεῖν.

- 35 Περὶ δὲ τῆς τούτου μαρτυρίας οὐ χαλεπὸν καὶ ἐξ αὐτῶν τῶν νόμων ἐστὶ γινῶναι ὅτι φαίνεται περιφανῶς τὰ ψευδῇ μεμαρτυρηκὼς οὗτος. ὅπου γάρ, εἰάν τις τι ἀτίμητον δῶ, ἔνεκα τοῦ νόμου, εἰάν ἀπολίπη ἢ γυνὴ τὸν ἄνδρα ἢ εἰάν ὁ ἀνὴρ ἐκπέμψῃ τὴν γυναῖκα, οὐκ ἔξεστι πράξασθαι τῷ δόντι ὃ μὴ ἐν προικὶ τιμήσας ἔδωκεν, ἢ που ὅστις γέ φησιν ἄνευ ὁμολογίας προικὸς τὴν ἀδελφὴν ἐγγυῆσαι, περιφανῶς ἀναίσχυντος ὢν ἐλέγχεται. τί γὰρ ἔμελλεν ὄφελος εἶναι αὐτῷ τῆς ἐγγύης, εἰ ἐπὶ τῷ ἐγγυησαμένῳ ἐκπέμψαι ὅποτε βούλοιτο τὴν γυναῖκα ἦν; ἦν δ' ἂν ἐπ' ἐκείνῳ, ὧ ἄνδρες, δηλὸν ὅτι, εἰ μηδεμίαν προῖκα διωμολογήσατο ἔξω ἐπ' αὐτῇ. εἴτ' ἐπὶ τούτοις ἂν Νικόδημος ἡγγύησεν τῷ ἡμετέρῳ θείῳ τὴν ἀδελφὴν; καὶ ταῦτα εἰδὼς τὸν ἅπαντα χρόνον ἄτοκον οὖσαν αὐτήν, καὶ τῆς ὁμολογηθείσης προικὸς ἐκ τῶν νόμων γιγνομένης εἰς αὐτόν, εἴ τι ἔπαθεν ἢ γυνὴ πρὶν γενέσθαι παῖδας
- 37 αὐτῇ; ἄρ' οὖν δοκεῖ τῷ ὑμῶν ὀλιγώρως οὕτως ἔχειν χρημάτων Νικόδημος, ὥστε παραλιπεῖν ἂν τι τῶν τοιούτων; ἐγὼ μὲν γὰρ οὐ νομίζω. εἴτα παρὰ τούτου ὁ ἡμέτερος θεῖος ἡξίωσεν ἂν ἐγγυήσασθαι τὴν ἀδελφὴν, ὃς αὐτὸς ξενίας φεύγων ὑπὸ ἐνὸς τῶν φρατόρων ὦν<sup>1</sup> φησιν αὐτοῦ εἶναι, παρὰ

<sup>1</sup> ὦν Reiske: ὄν.



most certainly have known it, if the fact had been true. But I shall have occasion to return to these uncles later.<sup>a</sup>

As for Nicodemus's evidence it is not difficult to decide from the actual text of the laws that he has obviously committed perjury. For seeing that, if a man gives with a woman a sum not duly assessed in a contract, and if the wife leaves her husband or the husband puts away his wife, the man who gave the money cannot, as far as the law is concerned, demand back what he gave but did not assess in a contract—the defendant when he states that he gave his sister in marriage without any contract regarding a dowry, is obviously proved to be making an impudent assertion. For what was likely to be the good to him of the marriage, if the husband could dismiss the wife whenever he wished? And this he certainly could do, if he had made no stipulation that he should receive a dowry with her. Would Nicodemus have married his sister to our uncle on these terms, and this, though he knew all the time that in the past she had produced no offspring, and though the dowry, if it had been assessed in a contract, was coming to him, if anything happened to her before she bore any children? Does any one of you really think that Nicodemus is so disinterested in money matters that he would neglect any of these considerations? For my part, I do not think it possible. Further, would our uncle have thought of marrying the sister of a man, who, when he was accused of usurping the rights of citizenship by a member of the ward to which he claimed to belong,

<sup>a</sup> §§ 63-71.

## ISAEUS

τέτταρας ψήφους μετέσχε τῆς πόλεως; καὶ ὡς ἀληθῆ λέγω, ἀναγίνωσκε τὴν μαρτυρίαν.

## MARTYRIA

- 38 Οὗτος τοίνυν τῷ ἡμετέρῳ θείῳ ἄπροικον τὴν ἀδελφὴν τὴν ἑαυτοῦ μεμαρτύρηκεν ἐγγυῆσαι, καὶ ταῦτα τῆς προικὸς εἰς αὐτὸν γιγνομένης, εἴ τι ἔπαθεν ἢ γυνὴ πρὶν γενέσθαι παῖδας αὐτῇ. λαβὲ δὴ καὶ ἀναγνώθι τοὺς νόμους τουσδὶ αὐτοῖς.

## NOMOI

- 39 Δοκεῖ ἂν ὑμῖν οὕτως ὀλιγώρως ἔχειν χρημάτων Νικόδημος, ὥστε, εἰ ἦν ἀληθὲς τὸ πρᾶγμα, οὐκ ἂν σφόδρα διακριβώσασθαι περὶ τῶν ἑαυτῷ συμφερόντων; ναὶ μὰ Δία, ὡς ἔγωγ' οἶμαι, ἐπεὶ καὶ οἱ ἐπὶ παλλακία<sup>1</sup> διδόντες τὰς ἑαυτῶν πάντες πρότερον διομολογοῦνται περὶ τῶν δοθησομένων ταῖς παλλακαῖς. Νικόδημος δὲ ἐγγυᾶν μέλλων, <ὥς><sup>2</sup> φησι, |  
[42] τὴν ἀδελφὴν τὴν αὐτοῦ μόνον τὸ κατὰ τοὺς νόμους ἐγγυῆσαι διεπράξατο; ὃς ἐπ' ὀλίγῳ ἀργυρίῳ, οὐ ἐπιθυμῶν λέγει πρὸς ὑμᾶς, σφόδρα βούλεται πονηρὸς εἶναι;
- 40 Περὶ μὲν οὖν τῆς τούτου<sup>3</sup> πονηρίας καὶ σιωπῶντος ἐμοῦ οἱ πολλοὶ γινώσκουσιν ὑμῶν, ὥστε οὐκ ἀπορῶ γε μαρτύρων, ὅταν τι λέγω περὶ αὐτοῦ. βούλομαι δὲ πρῶτον ἐκ τῶν τοιῶνδε ἐξελέγξαι

<sup>1</sup> παλλακία Bekker: παλλακίδι.

<sup>2</sup> ὥς add. Reiske.

<sup>3</sup> τούτου Sauppe: τούτων.

<sup>a</sup> i.e., without insisting on stipulations regarding a dowry which might eventually benefit him.

## ON THE ESTATE OF PYRRHUS, 37-40

obtained those rights by a majority of only four votes? And to prove the truth of what I say, read the deposition.

### DEPOSITION

The defendant then has given evidence that he gave his sister in marriage to our uncle without a dowry in spite of the fact that such a dowry was to come to him if anything happened to the woman before she had borne any children. Now take and read these laws to the judges.

### LAWS

Do you think that Nicodemus is so disinterested in money matters, that, if the fact which he alleges were true, he would not have provided for his own interests with scrupulous care? By heaven, I am sure he would have done so; for even those who give their womenkind to others as mistresses make stipulations in advance as to the benefits which such women are to enjoy. And was Nicodemus, when, according to his own account, he was going to give his sister in marriage, content with simply securing the requirements of a legal marriage <sup>a</sup>—a man who shows himself only too anxious to be dishonest for a paltry sum which he hopes to receive for speaking in court? <sup>b</sup>

As for his dishonesty, most of you know all about it without any words from me, so that at any rate I have abundant witnesses when I say anything about him. But I should like in the first place to convict him in the following manner of the most

<sup>b</sup> *i.e.*, as a reward for his false evidence.

- τούτον ἀναισχυντότατον τῇ μαρτυρίᾳ ὄντα ταύτη.  
 φέρε γάρ, ὦ Νικόδημε, εἰ ἦσθα ἡγγυηκὼς τῷ  
 Πύρρῳ τὴν ἀδελφὴν καὶ εἰ ἦδεις ἐξ αὐτῆς θυγατέρα  
 41 γνησίαν καταλειπομένην, πῶς ἐπέτρεψας τῷ ἡμε-  
 τέρῳ ἀδελφῷ ἐπιδικάσασθαι τοῦ κλήρου ἄνευ τῆς  
 γνησίας θυγατρός, ἣν φῆς τῷ ἡμετέρῳ θείῳ κατα-  
 λειφθῆναι; ἢ οὐκ ἦδεις ἐν τῇ ἐπιδικασίᾳ τοῦ  
 κλήρου νόθην καθισταμένην τὴν ἀδελφιδὴν τὴν  
 σαυτοῦ; ὁπότε γάρ [τις] ἐπεδικάζετο τοῦ κλήρου,  
 νόθην τὴν θυγατέρα τοῦ καταλιπόντος τὸν κλῆρον  
 42 καθίστη. ἔτι δὲ πρότερον ὁ Πύρρος ὁ ποιησά-  
 μενος τὸν ἀδελφὸν τὸν ἐμὸν ὕον αὐτῷ· οὔτε γὰρ  
 διαθέσθαι οὔτε δοῦναι οὐδενὶ οὐδὲν ἕξεστι τῶν  
 ἑαυτοῦ ἄνευ τῶν θυγατέρων, εἴαν τις καταλιπὼν  
 γνησίας τελευτᾷ. γνῶσεσθε δὲ αὐτῶν ἀκούσαντες  
 τῶν νόμων ἀναγινγνωσκομένων. ἀναγίγνωσκε  
 τούσδε αὐτοῖς.

NOMOI

- 43 Δοκεῖ ἂν ὑμῖν ὁ μεμαρτυρηκὼς ἐγγυῆσαι ἐπι-  
 τρέψαι ἂν τι τούτων γίνεσθαι, καὶ οὐκ ἂν ἐπὶ τοῦ  
 κλήρου τῇ λήξει, ἣν ὁ Ἑνδιος λαχὼν ἐπεδικάζετο,  
 ἀμφισβητῆσαι ἂν ὑπὲρ τῆς ἀδελφιδῆς τῆς ἑαυτοῦ,  
 καὶ οὐκ ἂν διαμαρτυρῆσαι μὴ<sup>1</sup> ἐπίδικον τῷ Ἑνδίῳ  
 τὸν ἐκείνης πατρῶον κλῆρον εἶναι; ἀλλὰ μὴν ὥς  
 γε ἐπεδικάσατο ὁ ἡμέτερος ἀδελφὸς τοῦ κλήρου  
 καὶ οὐκ ἡμφισβήτησεν οὐδεὶς ἐκείνῳ, ἀναγίγνωσκε  
 τὴν μαρτυρίαν.

<sup>1</sup> μὴ Schoemann: οὐκ.

<sup>a</sup> The permission of the court was necessary when the heir was a son adopted by will and not by the deceased in his lifetime.

impudent lying in this evidence of his. Come, tell me this, Nicodemus: If you had given your sister in marriage to Pyrrhus and if you knew that Pyrrhus was leaving a legitimate daughter by her, how is it that you allowed the inheritance to be adjudicated to our brother <sup>a</sup> without the disposal of the legitimate daughter whom you say our uncle left behind him? Did you not know that by the demand that the estate should be adjudicated an attempt was being made to bastardize your niece? For, when he claimed to have the estate adjudicated to him, he thereby sought to bastardize the daughter of him who left the estate. To go still further back, the adoption of my brother by Pyrrhus had a similar effect; for no one has the right to devise or dispose of any of his property without also disposing of any legitimate daughters whom he may have left at his decease. You will understand this when you hear the text of the laws read out. Read these laws to the judges.

## LAWS

Can you suppose that the man who has declared in evidence that he gave his sister in marriage would have allowed any of these things to be done, and, at the moment when Endius claimed to be given possession and applied to the court, would not have set up his niece's title and lodged a protestation that her paternal inheritance was not adjudicable to Endius? And yet that our brother claimed to have the estate adjudicated to him and that no one contested his claim, is proved by a deposition. Read it.

- 44 Γενομένης τοίνυν τῆς ἐπιδικασίας ταύτης οὐκ ἐτόλμησεν ἀμφισβητῆσαι τοῦ κλήρου Νικόδημος, οὐδὲ διαμαρτυρῆσαι τὴν ἀδελφιδὴν τὴν ἑαυτοῦ γνησίαν θυγατέρα Πύρρῳ καταλειφθῆναι.
- 45 Περὶ μὲν οὖν τῆς ἐπιδικασίας<sup>1</sup> ἔχοι ἂν τις ψευδὸς προφασίσασθαι πρὸς ὑμᾶς· ἢ γὰρ λαθεῖν σφᾶς<sup>2</sup> προσποιήσαιτ' ἂν οὗτος, ἢ καὶ ψεύδεσθαι αἰτιῶντ' ἂν ἡμᾶς. τοῦτο μὲν οὖν παρῶμεν· ἐπειδὴ δὲ τῷ Ξενοκλεῖ ἡγγύα ὁ Ἑνδιος τὴν ἀδελφιδὴν σου, ἐπέτρεψας, ὦ Νικόδημε, τὴν ἐκ τῆς ἐγγυητῆς τῷ Πύρρῳ γεγενημένην ὡς ἐξ ἐταίρας ἐκείνῳ οὔσαν
- 46 ἐγγυᾶσθαι; καὶ οὐκ [ἂν] εἰσῆγγειλας<sup>3</sup> πρὸς τὸν ἄρχοντα κακοῦσθαι τὴν ἐπὶ κληρον ὑπὸ τοῦ εἰσποιήτου οὕτως ὑβριζομένην καὶ ἄκληρον τῶν ἑαυτῆς πατρῶων καθισταμένην, ἄλλως τε καὶ μόνων τούτων τῶν δικῶν ἀκινδύνων τοῖς διώκουσιν οὐσῶν καὶ ἐξὸν τῷ βουλομένῳ βοηθεῖν ταῖς ἐπικλήροις;
- 47 οὔτε γὰρ ἐπιτίμιον ταῖς πρὸς τὸν ἄρχοντα εἰσαγγελίαις ἔπεστιν,<sup>4</sup> οὐδ' ἐὰν μηδεμίαν<sup>5</sup> τῶν ψήφων οἱ εἰσαγγείλαντες μεταλάβωσιν, οὔτε πρυτανεῖα οὔτε παράστασις οὐδεμία<sup>6</sup> τίθεται τῶν εἰσαγγελιῶν· ἀλλὰ τοῖς μὲν διώκουσιν ἀκινδύνως εἰσαγγέλλειν ἔξεστι, [τῷ βουλομένῳ], τοῖς δ' ἀλίσκομένοις ἔσχαται τιμωρίαι ἐπὶ ταῖς εἰσαγγελίαις
- 48 ἔπεισιν. ἔπειτα εἰ ἦν ἐξ ἐγγυητῆς ἢ τούτου

<sup>1</sup> ἐπιδικασίας Reiske: διαδικ-.

<sup>2</sup> σφᾶς Bekker: ἡμᾶς.

<sup>3</sup> εἰσῆγγειλας Schoemann: -γελλες.

<sup>4</sup> ἔπεστιν Reiske: ἐνεστιν.

<sup>5</sup> μηδεμίαν Bekker: οὐδεμίαν.

<sup>6</sup> οὐδεμία Photiades: -α.

## DEPOSITION

When this claim then for the adjudication of the estate was made, Nicodemus did not dare to contest the succession or put in a protestation that his niece was a legitimate daughter left by Pyrrhus.

Regarding this claim some lying explanation may be offered to you : the defendant may either pretend that they knew nothing about it or else may accuse us of lying. Let us ignore the latter suggestion. As regards the former, when Endius gave your niece in marriage to Xenocles, did you, Nicodemus, allow the daughter borne to Pyrrhus by his legitimate wife to be married in the quality of the child of a mistress ? And did you fail to bring a denunciation in the archon's court for injury to the heiress thus maltreated by the adopted son and despoiled of her paternal inheritance, especially as this is the only class of public actions which involves no risk to the party who brings it, and anyone who wishes is allowed to defend the rights of heiresses ? For no fine can be inflicted for denunciations made to the archon, even if the informants fail to receive a single vote,<sup>a</sup> and there are no deposits or court fees<sup>b</sup> paid in any impeachments ; but while the prosecutors may bring an impeachment without running any risk, extreme penalties are inflicted on those who are convicted in such impeachments. If, then, the defendant's niece had been the child of

<sup>a</sup> The prosecutor in other public actions was liable to a fine of 1000 drachmas if he failed to obtain one-fifth of the votes.

<sup>b</sup> *πρυτανεία*, deposits made by both parties in a suit and repayable to the successful litigant : *παράστασις*, fees payable by a prosecutor on entering upon certain suits.

- ἀδελφιδῇ τῷ ἡμετέρῳ θείῳ γεγεννημένη, ἐπέτρεψεν  
 ἂν Νικόδημος ὡς ἐξ ἐταίρας οὖσαν αὐτὴν ἐγγυᾶ-  
 σθαι; καὶ γενομένων αὐτῶν οὐκ ἂν εἰσῆγγειλε<sup>1</sup>  
 πρὸς τὸν ἄρχοντα ὑβρίζεσθαι τὴν ἐπὶ κληρον ὑπὸ  
 τοῦ οὕτως ἐγγυήσαντος αὐτὴν; καὶ, εἰ ἦν ἀληθῇ  
 ἃ νυνὶ τετόλμηκας<sup>2</sup> μαρτυρῆσαι, παραχρῆμα εὐθὺς  
 τότε ἐτιμωρήσω ἂν τὸν ἀδικοῦντα. ἦ καὶ ταῦτα  
 49 λαθεῖν σεαυτὸν προσποιήσῃ; ἔπειτ' οὐδ' ἐκ τῆς  
 ἐπιδοθείσης αὐτῇ προικὸς ἦσθου; ὥστε καὶ δι'  
 αὐτὸ τοῦτο ἀγανακτήσαντι δήπου σοι εἰσαγγεῖλαι  
 τὸν Ἐνδιον προσῆκεν, εἰ αὐτὸς μὲν τριτάλαντον  
 οἶκον ἔχειν ἡξίου ὡς προσῆκον αὐτῷ, τῇ δὲ  
 γνησίᾳ οὔσῃ <θυγατρὶ><sup>3</sup> [τρις]χιλίας δραχμὰς  
 προῖκα ἐπιδούς ἐκδοῦναι ἡξίωσεν ἄλλῳ. εἴτ' ἐπὶ  
 τούτοις οὐκ ἀγανακτήσας εἰσῆγγειλεν ἂν τὸν  
 Ἐνδιον οὗτος; ναὶ μὰ Δία, εἴ γ' ἦν ἀληθὲς τὸ  
 50 πρᾶγμα. οἶμαι δὲ οὐδ' ἂν τὴν ἀρχὴν ἐκείνον οὐδ'  
 ἄλλον γε<sup>4</sup> τῶν εἰσποιήτων οὐδένα οὕτως εὐήθη οὐδ'  
 [43] αὖ<sup>5</sup> ὀλίγωρον τῶν νόμων τῶν κειμένων | γίγνεσθαι,  
 ὥσθ' ὑπαρχούσης γνησίας θυγατρὸς τῷ τὸν κλῆρον  
 καταλιπόντι ἐτέρῳ δοῦναι ταύτην ἂνθ' ἑαυτοῦ.  
 ἀκριβῶς γὰρ ἦδει διότι τοῖς γε ἐκ τῆς γνησίας  
 θυγατρὸς παισὶ γεγονόσιν ἀπάντων τῶν παπ-  
 πῶν κληρονομία προσήκει. εἴτα εἰδὼς ἂν τις  
 ταῦτα ἐτέρῳ παραδοίῃ τὰ αὐτοῦ, καὶ ταῦτα τη-  
 51 λικαῦτα ὄντα ὅσων ἡμφισβήτησαν οὔτοι; δοκεῖ δ'

<sup>1</sup> εἰσῆγγειλε Baiter: -γελλε.

<sup>2</sup> τετόλμηκας Reiske: τετολμήκασι.

<sup>3</sup> θυγατρὶ add Rauchenstein.

<sup>4</sup> γε Scheibe: δέ.

<sup>5</sup> αὖ Bekker: ἂν.



our uncle by a legitimate wife, would Nicodemus have allowed her to be married in the quality of the child of a mistress? And, when this happened, would he not have lodged a denunciation before the archon that the heiress was being injured by him who thus gave her in marriage? If what you have now dared, Nicodemus, to depose, were true, you would have immediately have had punishment inflicted on him who was wronging her. Or will you pretend that you knew nothing of these circumstances either? Next, did not the dowry which was given with her awake your suspicion? This alone might well have aroused your indignation and induced you to denounce Endius, namely, that he himself was claiming as his right a fortune of three talents, but thought fit, when he was giving Pyrrhus's legitimate daughter in marriage to another man, to bestow with her a portion of only a thousand drachmas.<sup>a</sup> Would not this have aroused the defendant's indignation and would he not have denounced Endius? By heavens he would, if his story were true. I cannot imagine it possible that Endius, or any other adopted son, could be so foolish, or so regardless of the existing laws, as to give the legitimate daughter of the man who left the estate in marriage to another instead of marrying her himself; for he knew perfectly well that the children of a legitimate daughter have a right to succeed to the whole of their grandfather's estate. Knowing this, would anyone hand over his own property to another man, especially if it were of the value that our opponents

not accord with the statement of § 51, where the dowry is said to be less than a tenth of Pyrrhus's estate which amounted to three talents (18,000 drachmas).

ἂν τις ὑμῖν οὕτως ἀναιδὴς ἢ τολμηρὸς εἰσποίητος  
 γενέσθαι, ὥστε μὴδὲ τὸ δέκατον μέρος ἐπιδουὺς ἐκ-  
 δοῦναι τῇ γνησίᾳ θυγατρὶ τῶν πατρῶων; γενο-  
 μένων δὲ τούτων δοκεῖ ἂν ὑμῖν ὁ θεῖος ἐπιτρέψαι,  
 ὁ ἐγγυῆσαι μεμαρτυρηκῶς αὐτῆς τὴν μητέρα;  
 ἐγὼ μὲν γὰρ οὐ νομίζω, ἀλλὰ καὶ ἡμφισβήτησεν  
 ἂν τοῦ κλήρου καὶ διεμαρτύρησε καὶ εἰσήγγειλεν<sup>1</sup>  
 ἂν πρὸς τὸν ἄρχοντα, καὶ ἄλλο εἴ τι ἦν ἰσχυρό-  
 52 τερον τούτων, ἅπαντ' ἂν διεπράξατο. ὁ μὲν τοίνυν  
 "Ενδιος ὡς ἐξ ἐταίρας οὔσαν ἡγγύησεν, ἣν φησιν  
 ἀδελφιδὴν Νικόδημος εἶναι αὐτῷ· οὗτος δὲ οὔτε  
 τῷ "Ενδίῳ τοῦ Πύρρου κλήρου ἀμφισβητήσαι  
 ἠξίωσεν, οὔτ' ἐγγυήσαντα τὴν ἀδελφιδὴν <ὡς><sup>2</sup>  
 οὔσαν ἐξ ἐταίρας εἰσαγγεῖλαι πρὸς τὸν ἄρχοντα  
 [ἠξίωσεν], οὔτ' ἐπὶ τῇ δοθείσῃ προικὶ αὐτῇ  
 ἡγανάκτησεν οὐδέν, ἀλλὰ πάντα ταῦτα εἴασε γενέ-  
 σθαι. οἱ δὲ νόμοι περὶ ἀπάντων διορίζουσι τούτων.  
 53 ἀναγνώσεται οὖν πρῶτον ὑμῖν τὴν περὶ τῆς ἐπι-  
 δικασίας τοῦ κλήρου μαρτυρίαν πάλιν, ἔπειτα τὴν  
 περὶ τῆς ἐγγυήσεως τῆς γυναικός. ἀναγίγνωσκε  
 αὐτοῖς.

ΜΑΡΤΥΡΙΑ<Ι>

Ἀνάγνωθι δὴ καὶ τοὺς νόμους.

ΝΟΜΟΙ

Λαβὲ δὴ καὶ τὴν τούτου μαρτυρίαν.

ΜΑΡΤΥΡΙΑ

54 Πῶς οὖν <ἂν><sup>3</sup> τις σαφέστερον ἐξελέγχοι<sup>4</sup> ψευδο-  
 μαρτυρίων διώκων ἢ ἔκ τε τῶν πεπραγμένων

<sup>1</sup> εἰσήγγειλεν Aldus: -ελλεν.

<sup>3</sup> ἂν add. Dobree.

<sup>2</sup> ὡς add. Reiske.

<sup>4</sup> ἐξελέγχοι Aldus: -ει.

## ON THE ESTATE OF PYRRHUS, 51-54

claim? Can you imagine an adopted son being so shameless and brazen-faced as to give the legitimate daughter in marriage with a dowry of not even a tenth of her father's fortune? And if he had done so, can you imagine that her uncle, who has borne witness that he gave her mother in marriage, would have allowed it? For my part I cannot believe it; rather would he have contested the estate and put in a protestation and denounced him to the archon and taken any stronger action if it were possible. Endius then gave this woman, whom Nicodemus alleges to be his niece, in marriage in the quality of the daughter of a mistress; and the defendant did not think fit to claim the estate of Pyrrhus from Endius, or, when Endius gave his niece in marriage in the quality of the daughter of a mistress, denounce him to the archon, nor did he express any indignation at the dowry which was bestowed upon her; no, he took no action at all in these matters. Yet the laws are precise on all these points. The clerk shall read to you first of all, for the second time, the deposition about the claim for the adjudication of the estate and then that concerning the marriage of the woman. Read them to the court.

### DEPOSITIONS

Now read the laws.

### LAWS

Now take Nicodemus's deposition.

### DEPOSITION

How could an accuser establish a charge of perjury more clearly than by adducing proofs from the

## ISAEUS

αὐτοῖς τούτοις ἐπιδεικνύων καὶ ἐκ τῶν νόμων ἀπάντων τῶν ἡμετέρων;

Περὶ μὲν οὖν τούτου σχεδὸν εἴρηται τὰ πολλά· σκέψασθε δὲ καὶ περὶ τοῦ ἔχοντος τὴν ἀδελφιδὴν τὴν τούτου γυναῖκα, ἐὰν ἄρα τι γένηται καὶ ἐκ τούτου τεκμήριον ὥς ἔστι ψευδῇ τὰ μεμαρ-  
 55 τυρημένα Νικοδήμῳ. ὥς μὲν οὖν ἡγγυήσατο καὶ ἔλαβεν ὥς οὔσαν ἐξ ἐταίρας τὴν γυναῖκα, ἐπιδέδεικται καὶ μεμαρτύρηται· ὥς δ' ἀληθῆς ἡ μαρτυρία ἐστὶν αὕτη, ὃ Ξενοκλῆς αὐτὸς ἔργῳ οὐκ ὀλίγον χρόνον ἤδη [ἀληθῇ ταῦτα] μεμαρτύρηκε. δηλὸν γὰρ ὅτι εἰ μὴ ἡγγύητο παρὰ τοῦ Ἐνδίου ὥς ἐξ ἐταίρας οὔσαν τὴν γυναῖκα, ὄντων αὐτῷ παίδων ἤδη τηλικούτων ἐκ τῆς γυναικός, ζῶντι ἂν τῷ Ἐνδίῳ ἡμφισβήτησεν ὑπὲρ<sup>1</sup> τῆς γνησίας  
 56 θυγατρὸς τῶν πατρῶων, ἄλλως τε καὶ παρεσκευασμένος μὴ ὁμολογεῖν τὴν τοῦ Ἐνδίουποίησιν τῷ Πύρρῳ γενέσθαι· ὥς δὲ οὐχ ὁμολογῶν [πῶς] ἐπεσκήπτετο<sup>2</sup> τοῖς μεμαρτυρηκόσιν ἐπὶ τῇ διαθήκῃ τοῦ Πύρρου παραγενέσθαι. καὶ ὥς ἀληθῇ λέγω, ἀναγνώσεται ὑμῖν<sup>3</sup> τὴν μαρτυρίαν τὴν μαρτυρηθεῖσαν. ἀναγίνωσκε αὐτοῖς.

## ΜΑΡΤΥΡΙΑ

57 Ἀλλὰ μὴν καὶ κεῖνό γε δηλοῖ,<sup>4</sup> ὥς οὐχ ὁμολογοῦσι τὴν τοῦ Ἐνδίουποίησιν ὑπὸ τοῦ Πύρρου γενέσθαι. οὐ γὰρ ἂν ὑπερβάντες τὸν τελευταῖον τοῦ οἴκου γεγεννημένον κληρονόμον ὑπὲρ τῆς γυναικός τοῦ Πύρρου κλήρου λαχεῖν τὴν λῆξιν

<sup>1</sup> ἡμφισβήτησεν ὑπὲρ Bekker: -σε περι.

<sup>2</sup> ἐπεσκήπτετο Reiske: ἐπέσκηπτε.

<sup>3</sup> ὑμῖν Aldus: ἡμῖν.

<sup>4</sup> δηλοῖ Schoemann: δηλόν.

actual conduct of my adversaries themselves and from all the laws of our state ?

I have now said most of what I have to say about the defendant. Consider now whether the conduct of the niece's husband does not provide a convincing argument that Nicodemus's evidence is false. That he married her and took her to be his wife as the daughter of a mistress, has been proved and attested ; and that this evidence is true, Xenocles himself has testified by his conduct over a long period. For it is evident that, if he had not received the woman in marriage from Endius as the daughter of a mistress, seeing that he had children by her who have already reached a certain age,<sup>a</sup> he would have claimed her patrimony on behalf of the legitimate daughter from Endius during his lifetime, especially as he was prepared to deny that the adoption of Endius by Pyrrhus ever took place ; and it was because he denied it that he denounced those who have deposed that they were present when Pyrrhus made his will. And to prove that I am speaking the truth, the clerk shall read you the deposition then made. Read it to the court.

#### DEPOSITION

Here is another proof that they do not admit that the adoption of Endius by Pyrrhus ever took place, namely, that they would never otherwise have thought of demanding the award of the inheritance to this woman, ignoring the long tenancy of the

<sup>a</sup> Xenocles and Phile had been married eight years (§ 31).

ἡξίωσαν οὔτοι. ὁ μὲν γὰρ Πύρρος πλείω ἢ  
 εἴκοσιν ἔτη τετελεύτηκεν ἤδη, ὁ δὲ Ἑνδιος τοῦ  
 Μεταγειντιῶνος μηνὸς πέρυσιν, ἐν ᾧ ἔλαχον τοῦ  
 58 κλήρου τὴν λῆξιν τρίτη ἡμέρα εὐθέως οὔτοι. ὁ  
 δὲ νόμος πέντε ἔτων κελεύει δικάσασθαι τοῦ  
 κλήρου, ἐπειδὰν τελευτήσῃ ὁ κληρονόμος. οὐκοῦν  
 δυοῖν τὰ ἕτερα προσήκε τῇ γυναικί, ἢ ζῶντι τῷ  
 Ἑνδίῳ ἀμφισβητῆσαι τῶν πατρῶων, ἢ ἐπειδὴ  
 τετελευτηκὼς ἦν ὁ εἰσποιήτος, τῶν τοῦ ἀδελφοῦ  
 τὴν ἐπιδικασίαν ἀξιοῦν ποιεῖσθαι, ἄλλως τε καὶ  
 εἰ, ὥς φασιν οὔτοι, ἡγγυήκει αὐτὴν τῷ Ξενοκλεῖ  
 59 ὥς γνησίαν ἀδελφὴν οὔσαν αὐτοῦ. ἀκριβῶς γὰρ  
 ἐπιστάμεθα πάντες ὅτι ἀδελφῶν μὲν κλήρων ἐπι-  
 δικασία πᾶσιν ἐστὶν ἡμῖν, ὅτῳ δὲ γόνῳ γεγόνασι  
 γνήσιοι παῖδες, οὐδενὶ ἐπιδικάζεσθαι τῶν πατρῶων  
 προσήκει. καὶ περὶ τούτων οὐδένα λόγον λεχθῆναι  
 [44] δεῖ· ἅπαντες γὰρ ὑμεῖς | καὶ οἱ ἄλλοι πολῖται  
 ἀνεπίδिका ἔχουσι τὰ ἑαυτῶν ἕκαστοι πατρῶα.  
 60 οὔτοι τοίνυν εἰς τοῦτο τόλμης ἀφιγμένοι εἰσίν,  
 ὥστε τῷ μὲν εἰσποιήτῳ οὐκ ἔφασαν ἐπιδικά-  
 σασθαι προσήκειν τῶν δοθέντων, τῇ δὲ Φίλῃ, ἣν  
 φασὶ θυγατέρα γνησίαν τῷ Πύρρῳ καταλελεῖφθαι,  
 λαχεῖν τοῦ κλήρου τοῦ πατρῶου τὴν λῆξιν ἡξίωσαν.  
 καίτοι (ὅπερ εἶπον καὶ πρότερον) ὅσοι μὲν <ἂν><sup>1</sup>  
 καταλίπωσι γνησίους παῖδας ἐξ αὐτῶν, οὐ προσ-  
 ῃκει τοῖς παισὶν ἐπιδικάσασθαι τῶν πατρῶων·  
 ὅσοι δὲ διαθήκαις αὐτοῖς<sup>2</sup> εἰσποιοῦνται, τούτοις

<sup>1</sup> ἂν add. Dobree.<sup>2</sup> αὐτοῖς Dobree: αὐτοί.<sup>a</sup> August to September.<sup>b</sup> i.e., would succeed naturally without consent of the

last heir. For Pyrrhus has been dead for more than twenty years, whereas Endius died in the month of Metageitnion <sup>a</sup> last year, in which month they promptly claimed the inheritance only two days after his death. Now the law ordains that a petition for the adjudication of an inheritance must be presented within five years of the death of the last heir. Two courses were, therefore, open to the woman, either to claim her paternal inheritance during Endius's lifetime, or else, when the adopted son had died to claim that her brother's estate should be adjudicated to her, especially if, as our opponents allege, he had given her in marriage to Xenocles as his legitimate sister. We all know perfectly well that every one of us has the right to claim the adjudication of a brother's estate, but that, if he has left legitimate children born of his body, no child need claim to have his patrimony adjudicated to him.<sup>b</sup> It is quite unnecessary to labour this point, for all of you, and all other citizens as well, possess your patrimonies without any adjudication by the courts. Our opponents, then, have pushed their effrontery so far that, while they denied that the adopted son need obtain the adjudication of an estate which has been bequeathed to him, they thought fit to claim the adjudication of her father's estate to Phile, whom they allege to have been a legitimate daughter left by Pyrrhus. Yet, as I have already said, when testators leave legitimate issue, their children need not demand the adjudication of their patrimony ; but, on the contrary, when testators adopt children by will, such children must

courts, which had to be obtained by collateral and testamentary heirs.

- 61 ἐπιδικάζεσθαι προσήκει τῶν δοθέντων. τοῖς μὲν γάρ, ὅτι γόνῳ γεγόνασιν, οὐδεὶς ἂν δήπου ἀμφισβητήσῃε περὶ τῶν πατρῶων· πρὸς δὲ τοὺς εἰσποιήτους ἅπαντες οἱ κατὰ γένος προσήκοντες ἀμφισβητεῖν ἀξιοῦσιν. ἵνα οὖν μὴ παρὰ τοῦ ἐν-τυχόντος τῶν κλήρων αἱ λήξεις [τοῖς ἀμφισβητεῖν βουλομένοις] γίνωνται, καὶ μὴ ὡς ἐρήμων τῶν κλήρων ἐπιδικάζεσθαί τινες τολμῶσι, τούτου ἕνεκα τὰς ἐπιδικασίας οἱ εἰσποιήτοι πάντες ποιοῦνται.
- 62 μηδεὶς οὖν ὑμῶν ἡγείσθω, εἰ ἐνόμιζε γνησίαν εἶναι τὴν ἑαυτοῦ γυναῖκα Ξενοκλῆς, λαχεῖν ἂν ὑπὲρ αὐτῆς τὴν λῆξιν τοῦ κλήρου τοῦ πατρῶου, ἀλλ' ἐβάδιζεν ἂν ἡ γνησία εἰς τὰ ἑαυτῆς πατρῶα, καὶ εἴ τις αὐτὴν ἀφηρεῖτο ἢ ἐβιάζετο, ἐξῆγεν ἂν ἐκ τῶν πατρῶων, καὶ οὐκ ἂν ἰδίας μόνον δίκας ἔφευγεν ὁ βιαζόμενος, ἀλλὰ καὶ δημοσίᾳ εἰσαγγεληθεὶς πρὸς<sup>1</sup> τὸν ἄρχοντα ἐκινδύνευεν ἂν περὶ τοῦ σώματος καὶ τῆς οὐσίας ἀπάσης τῆς ἑαυτοῦ.
- 63 Ἐτι δ' ἂν πρότερον τοῦ Ξενοκλέους οἱ τοῦ Πύρρου θεῖοι, εἰ ᾗδεσαν γνησίαν θυγατέρα τῷ ἑαυτῶν ἀδελφιδῷ καταλειπομένην καὶ ἡμῶν μηδένα λαμβάνειν ἐθέλοντα αὐτήν, οὐκ ἂν ποτε ἐπέτρεψαν Ξενοκλέα, τὸν μηδαμόθεν μηδὲν γένει προσήκοντα Πύρρῳ, λαβόντα ἔχειν τὴν κατὰ γένος προσ-
- 64 ἤκουσαν αὐτοῖς γυναῖκα. ἢ δεινόν γ' ἂν εἴη. τὰς μὲν ὑπὸ τῶν πατέρων ἐκδοθείσας καὶ συνοικούσας ἀνδράσι γυναῖκας (περὶ ὧν τίς ἂν ἄμεινον ἢ ὁ πατὴρ βουλεύσαιο;) καὶ τὰς οὕτω δοθείσας, ἂν

<sup>1</sup> πρὸς Reiske: εἰς.



obtain an adjudication of what is bequeathed to them. Since the former are the issue of the deceased, no one, I suppose, could dispute their possession of their patrimony ; but all blood-relations think they have the right to dispute a bequest to an adopted son. In order, therefore, that suits for such estates may not be brought by any chance claimant and that persons may not dare to demand the adjudication of them as vacant inheritances, adopted sons apply to the court for an adjudication. Let none of you, therefore, imagine that, if Xenocles had believed his wife to be a legitimate child, he would have brought a suit claiming her patrimony ; no, the legitimate daughter would have entered into possession of her father's estate, and, if anyone had tried to seize it or deprive her of it by violence, he would have been ousting her from her patrimony and would have been liable not only to a civil prosecution but also to a public denunciation to the archon and would have risked his person and all his possessions.

Even before any action on the part of Xenocles, Pyrrhus's uncles, if they had known that their nephew had left a legitimate daughter and that none of us was willing to take her in marriage, would never have allowed Xenocles, who was an entire stranger in blood to Pyrrhus, to take and marry one who belonged to them by right of kinship. Such a proceeding would have been extraordinary. The law ordains that daughters who have been given in marriage by their father and are living with their husbands—and who can judge better than a father what is to his daughter's interest?—in spite of the fact that they are thus married,

ὁ πατήρ αὐτῶν τελευτήσῃ μὴ καταλιπὼν αὐταῖς  
 γνησίους ἀδελφούς, τοῖς ἐγγύτατα γένους ἐπι-  
 δίκους ὁ νόμος εἶναι κελεύει, καὶ πολλοὶ συν-  
 οικοῦντες ἤδη ἀφήρηνται τὰς ἑαυτῶν γυναικάς.  
 65 εἴτα τὰς μὲν ὑπὸ τῶν πατέρων ἐκδοθείσας διὰ  
 τὸν νόμον ἐξ ἀνάγκης ἐπιδίκους εἶναι προσήκει·  
 Ξενοκλεῖ δὲ ἂν τις τόδ' ἐπέτρεψε τῶν τοῦ Πύρρου  
 θείων, εἰ ἦν γνησία θυγάτηρ ἐκείνῳ καταλειπο-  
 μένη, λαβόντα ἔχειν τὴν κατὰ γένος προσήκουσαν  
 αὐτοῖς γυναικα, καὶ τοσαύτης οὐσίας τοῦτον κατα-  
 στῆναι<sup>1</sup> κληρονόμον ἀνθ' ἑαυτῶν; μὴ νομίσητε  
 66 ὑμεῖς, ὦ ἄνδρες· οὐδεὶς γὰρ ἀνθρώπων μισεῖ τὸ  
 λυσιτελοῦν, οὐδὲ περὶ πλείονος τοὺς ἀλλοτρίους  
 ἑαυτοῦ ποιεῖται. ἐὰν οὖν προφασίζονται διὰ τὴν  
 τοῦ Ἐνδίου ποίησιν μὴ ἐπιδίκον εἶναι τὴν γυναικα,  
 καὶ διὰ ταῦτα μὴ φῶσιν ἀμφισβητῆσαι αὐτῆς,  
 πρῶτον μὲν ἐκεῖνα αὐτοὺς ἐρέσθαι χρή, τί<sup>2</sup> ὁμο-  
 λογοῦντες τὴν τοῦ Ἐνδίου ποίησιν ὑπὸ τοῦ Πύρ-  
 ρου γενέσθαι ἐπεσκημμένοι εἰσὶ τοῖς μεμαρτυρηκόσι  
 67 ταῦτα, εἴτα <τί><sup>3</sup> παρελθόντες τὸν τελευταῖον τοῦ  
 οἴκου γεγεννημένον κληρονόμον τοῦ Πύρρου κλήρου  
 τὴν λῆξιν λαχεῖν ἡξίωσαν παρὰ τὸν νόμον. πρὸς  
 δὲ τούτοις ἐκεῖνο αὐτοὺς ἐρεσθε, εἴ τις τῶν  
 γνησίων <τῶν><sup>4</sup> αὐτοῦ ἐπιδικάζεσθαι ἀξιοῖ. ταῦτα  
 πρὸς τὴν ἀναίδειαν αὐτῶν πυνθάνεσθε. ὥς δ' ἦν  
 ἐπιδίκος ἡ γυνή, εἴ περ γνησία κατελείφθη,<sup>5</sup> ἐκ

<sup>1</sup> καταστῆναι Reiske : καταστήσαι.

<sup>2</sup> τί Naber : εἰ.

<sup>3</sup> τί add. Naber.

<sup>4</sup> τῶν add. Reiske.

<sup>5</sup> κατελείφθη Aldus : καταληφθείη.

<sup>a</sup> Though the legal principle here stated is correct, it does not apply to all cases indiscriminately. For example, if a daughter, who was an heiress, married and had children, her rights accrued to the children when they came of age ; no

shall, if their father dies without leaving them legitimate brothers, pass into the legal power of their next-of-kin; and indeed it has frequently happened that husbands have been thus deprived of their own wives.<sup>a</sup> While, then, the necessary consequence of this law is that women who have been given in marriage by their fathers are thus liable to be legally claimed, would any one of Pyrrhus's uncles, if Phile were a legitimate daughter left by him, have allowed Xenocles to take and marry a woman who belonged to them by right of kinship and thus make him heir<sup>b</sup> to so large a fortune instead of themselves? Do not believe it, gentlemen; no man so hates his own advantage and prefers the interest of strangers to his own. If, therefore, they pretend that the adoption of Endius annulled their rights over this woman and allege that it is for this reason that they laid no claim to her, the following questions must be put to them: First, why have they attacked those who have borne witness to the adoption of Endius by Pyrrhus if they admit that it took place? And, secondly, why did they think fit to claim the succession to Pyrrhus's estate illegally, ignoring him who was its last tenant? Furthermore, you should ask them whether any legitimate child ever thinks of requesting the court to adjudicate to him what is his own. These are the questions with which you should oppose their impudence. That the woman could be legally claimed by her next-of-kin, if she was really a legitimate doubt also, if she had no children, she could renounce her rights and remain with her husband.

<sup>b</sup> As a matter of fact the husband of an heiress enjoyed the usufruct of her fortune only during the minority of their son or sons.

- 68 τῶν νόμων σαφέστατα μαθεῖν ἔστι τοῦτο. ὁ γὰρ νόμος διαρρήδην λέγει ἐξεῖναι διαθέσθαι ὅπως ἂν ἐθέλῃ τις τὰ αὐτοῦ, εἰ μὴ παῖδας γνησίους καταλίπη ἄρρενας· ἂν δὲ θηλείας καταλίπη, σὺν ταύταις. οὐκοῦν μετὰ τῶν θυγατέρων ἔστι δοῦναι καὶ διαθέσθαι τὰ αὐτοῦ· ἄνευ δὲ τῶν γνησίων θυγατέρων οὐχ οἷόν τε οὔτε ποιήσασθαι οὔτε δοῦναι οὐδενὶ
- 69 οὐδὲν τῶν ἑαυτοῦ. οὐκοῦν εἰ μὲν ἄνευ τῆς γνησίας θυγατρὸς τὸν Ἑνδιον Πύρρος ἐποιεῖτο ὑὸν αὐτῷ, ἄκυρος ἂν ᾗν αὐτοῦ ἡ ποίησις κατὰ τὸν νόμον· εἰ δὲ τὴν θυγατέρα ἐδίδου καὶ ἐπὶ τούτῳ ποιη-
- [45] σάμενος κατέλιπε, πῶς ἂν ὑμεῖς | ἐπετρέψατε ἐπιδικάζεσθαι οἱ τοῦ Πύρρου θεῖοι<sup>1</sup> τὸν Ἑνδιον τοῦ Πύρρου κλήρου ἄνευ τῆς γνησίας θυγατρὸς, εἰ ᾗν ἐκείνῳ, ἄλλως τε εἰ καὶ ἐμαρτυρήσατε ὥς ἐπέσκηψεν ὑμῖν ὁ ἀδελφιδοῦς ἐπιμελεῖσθαι τούτου
- 70 τοῦ παιδίου; ἀλλ' ὦ ἄγαθοί,<sup>2</sup> τοῦτο μὲν καὶ λαθεῖν φήσαιτ' ἂν ὑμᾶς· ὅτε δ' ἡγγύα καὶ ἐξεδίδου ὁ Ἑνδιος τὴν γυναῖκα,<sup>3</sup> ἐπετρέπετε ὑμεῖς οἱ θεῖοι τὴν τοῦ ἀδελφιδοῦ τοῦ ὑμετέρου αὐτῶν ὥς ἐξ ἐταίρας οὔσαν ἐκείνῳ ἐγγυᾶσθαι, ἄλλως τε καὶ παραγενέσθαι φάσκοντες, ὅτε ὁ ἀδελφιδοῦς ὑμῶν ἡγγυᾶτο τὴν μητέρα τὴν ταύτης κατὰ <τοὺς><sup>4</sup> νόμους ἔξειν γυναῖκα, ἔτι δὲ καὶ ἐν τῇ δεκάτῃ τῇ
- 71 ταύτης κληθέντες συνεστιᾶσθαι; πρὸς δὲ τούτοις (τουτὶ γὰρ τὸ δεινόν ἐστιν) ἐπισκῆψαι φάσκοντες ὑμῖν τὸν ἀδελφιδοῦν ἐπιμελεῖσθαι τούτου τοῦ παιδίου, οὕτως ἐπεμελήθητε ὥστ' εἶασαι ὥς ἐξ ἐταίρας οὔσαν αὐτὴν ἐγγυᾶσθαι, ἄλλως τε καὶ

<sup>1</sup> οἱ τοῦ Πύρρου θεῖοι Buermann: τῷ τοῦ Π. θεῖω.

<sup>2</sup> ἀγαθοὶ Sauppe: ἀγαθέ.

<sup>3</sup> τὴν γυναῖκα schedae Etonenses: τῇ γυναικί.

daughter of the deceased, appears most evidently from the laws. The law states explicitly that, in the absence of legitimate male issue, a man can dispose of his property as he pleases, but that, if he has daughters, the legatees must take them as well. Thus a man may bequeath and dispose of his property with his daughters, but he may not either adopt a son or leave any of his possessions to anyone without also disposing of his legitimate daughters. If, therefore, Pyrrhus adopted Endius as his son without also disposing of his legitimate daughter, the adoption would have been void in the eyes of the law ; if, on the other hand, he intended to give him his daughter and after adopting him on these terms left her to him, how could you, the uncles of Pyrrhus, have allowed Endius to have the estate of Pyrrhus adjudicated to him without his taking also his legitimate daughter, if he had one, especially as you testified that your nephew solemnly charged you to look after this girl ? Can you say, my good friends, that this point escaped your notice ? Yet when Endius betrothed the woman and gave her in marriage, did you, his uncles, allow your own nephew's daughter to be betrothed as his daughter by a mistress, though you declare that you were present when your nephew took her mother to be his wife in due legal form, and further, that you took part by invitation in the celebrations on the tenth day after her child's birth ? Furthermore—and this is the worst part of your conduct—though you declare that your nephew solemnly charged you to look after this girl, your mode of looking after her was to allow her to be married as the daughter

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<sup>4</sup> τοὺς add. Schoemann.

ἔχουσιν τοῦνομα τῆς ὑμετέρας αὐτῶν ἀδελφῆς,  
ὥς ἐμαρτυρεῖτε;

- 72 Ἐκ τοίνυν τούτων, ὦ ἄνδρες, καὶ ἐξ αὐτοῦ τοῦ πράγματος ῥαδίον ἐστι γινῶναι ὅσον ἀναισχυντότατοι ἀνθρώπων εἰσὶν οὗτοι. τίνος γὰρ ἔνεκα, εἰ ἦν γνησία θυγάτηρ τῷ ἡμετέρῳ θείῳ καταλειπομένη, ποιησάμενος ὁ θεὸς κατέλιπε τὸν ἐμὸν ἀδελφὸν υἱὸν ἑαυτῷ; πότερον ὅτι προσήκοντες αὐτῷ ἐγγυτέρῳ γένους ἡμῶν ἦσαν ἄλλοι, οὓς βουλόμενος τὴν ἐπιδικασίαν τῆς θυγατρὸς ἀποστερῆσαι ἐποιεῖτο τὸν <ἐμὸν><sup>1</sup> ἀδελφὸν υἱὸν αὐτῷ; ἀλλ' οὔτε ἐγένετο οὗτ' ἔστι, μὴ γενομένων [δὲ] παίδων γνησίων ἐκείνῳ, ἐγγυτέρῳ ἡμῶν οὐδὲ εἷς· ἀδελφὸς μὲν γὰρ οὐκ ἦν αὐτῷ οὐδ' ἀδελφοῦ παῖδες, ἐκ δὲ τῆς ἀδελφῆς ἡμεῖς ἦμεν αὐτῷ.
- 73 ἀλλὰ νῆ Δία ἄλλον τινὰ ποιησάμενος τῶν συγγενῶν ἔδωκεν ἂν ἔχειν τὸν κλῆρον καὶ τὴν θυγατέρα τὴν ἑαυτοῦ. καὶ τί αὐτὸν ἔδει καταφανῶς καὶ ὁτωοῦν ἀπέχθασθαι τῶν οἰκείων, ἐξόν, εἴπερ ἦν ἡγγυημένος τὴν ἀδελφὴν τὴν Νικοδήμου, τὴν θυγατέρα τὴν ἐκ ταύτης ἀποφανθεῖσαν εἶναι εἰς τοὺς φράτορας εἰσαγαγόντι ὥς οὐσαν γνησίαν ἑαυτῷ, ἐπὶ ᾧ παντὶ τῷ κλήρῳ ἐπιδικὸν καταλιπεῖν αὐτήν, καὶ ἐπισκῆψαι τῶν γιγνομένων <ἐκ><sup>2</sup> τῆς
- 74 θυγατρὸς παίδων εἰσαγαγεῖν υἱὸν ἑαυτῷ; δῆλον [μὲν] γὰρ ὅτι ἐπὶ κληρον καταλιπὼν ἀκριβῶς ἂν ᾔδει ὅτι δυοῖν θάτερον ἔμελλεν ὑπάρχειν αὐτῇ· ἢ γὰρ ἡμῶν τινα τῶν ἐγγύτατα γένους ἐπιδικασάμενον ἔξειν γυναῖκα, ἢ εἰ μηδεὶς ἡμῶν ἐβούλετο λαμβάνειν, τῶν θείων τινα τούτων τῶν μαρτυρούντων, εἰ δὲ μή, τῶν ἄλλων τινα συγγενῶν τὸν αὐτὸν τρόπον ἐπὶ πάσῃ τῇ οὐσίᾳ<sup>3</sup> ἐπιδικασάμενον

of a mistress, although, as you testified, she bore the name of your own sister.

From all this, gentlemen, and from what actually happened, it is easy to see that these men attain the limit of human impudence. For why did our uncle, if he had a legitimate daughter who survived him, adopt and leave behind my brother as his son? Had he nearer relatives than us whom he wished, by adopting my brother, to exclude from the right of claiming his daughter? In the absence of legitimate sons of his own, he neither has nor ever had a single relative nearer than us; for he had no brother or brother's sons, and we were the children of his sister. But, it may be urged, he might have adopted some other kinsman and given him the possession of his estate and his daughter. Yet what need had he openly to incur the enmity of any one of his relatives, when it was in his power, if he had really married the sister of Nicodemus, to introduce the child, who has been declared to be her offspring, to the members of his ward as his own legitimate child, and leave her sole heiress to all his estate and direct that one of her sons should be introduced as his adopted son? For it is clear that, if he left her sole heiress, he would have been fully aware that one of two things was likely to happen to her: either one of us, the nearest relatives, would obtain an adjudication and take her as wife; or, if none of us wished to take her, one of these uncles who just now gave evidence, or, failing them, one of the other relatives, would, on the same principle, obtain an adjudication of her together with the

<sup>1</sup> ἐμὸν add. Stephanus.

<sup>2</sup> ἐκ add. Reiske.

<sup>3</sup> ἐπὶ πάσῃ τῇ οὐσίᾳ Wyse: περὶ πάσης τῆς οὐσίας.



- 75 κατὰ τοὺς νόμους ἔξειν<sup>1</sup> ταύτην γυναῖκα. οὐκοῦν ἐκ μὲν τοῦ τὴν θυγατέρα εἰς τοὺς φράτορας εἰσαγαγεῖν καὶ μὴ ποιήσασθαι τὸν ἐμὸν ἀδελφὸν ὑὸν αὐτῷ ταυτ' ἂν<sup>2</sup> διεπράξατο· ἐκ δὲ τοῦ τοῦτον μὲν ποιήσασθαι τὴν δὲ μὴ εἰσαγαγεῖν τὴν μὲν νόθην, ὥσπερ αὐτῷ προσῆκε, καὶ ἄκληρον κατέστησε, 76 τὸν δὲ κληρονόμον κατέλιπε τῶν ἑαυτοῦ. ἀλλὰ μὴν ὥς γε<sup>3</sup> οὔτε γαμηλίαν εἰσήνεγκεν ὁ θεῖος ἡμῶν, οὔτε τὴν θυγατέρα, ἣν φασι γνησίαν αὐτῷ εἶναι οὗτοι, εἰσαγαγεῖν εἰς τοὺς φράτορας ἠξίωσε, καὶ ταῦτα νόμου ὄντος αὐτοῖς, ἀναγνώσεται [δὲ] ὑμῖν τὴν τῶν φρατόρων τῶν ἐκείνου μαρτυρίαν. ἀναγίγνωσκε· σὺ δ' ἐπίλαβε<sup>4</sup> τὸ ὕδωρ.

ΜΑΡΤΥΡΙΑ

Λαβὲ δὲ καὶ ὡς ἐποίησατο τὸν ἐμὸν ἀδελφὸν ὑὸν αὐτῷ.

ΜΑΡΤΥΡΙΑ

- 77 Εἶτα ὑμεῖς τὴν Νικοδήμου μαρτυρίαν τῶν αὐτοῦ τοῦ θείου ἐκμαρτυριῶν πιστοτέραν ἡγήσεσθε εἶναι, καὶ τὴν οὕτω κοινὴν τοῖς βουλομένοις γεγεννημένην, ταύτην ἐπιχειρήσει τις ὑμᾶς πείθειν ὅτι ἐγγυητὴν γυναῖκα ὁ ἡμέτερος θεῖος ἔσχειν; ἀλλ' ὑμεῖς, ὡς ἔγωγ' οἶμαι, οὐ πιστεύσετε,<sup>5</sup> εἰ μὴ ἀποφαίνη 78 ὑμῖν, ὅπερ ἀρχόμενος εἶπον τοῦ λόγου, πρῶτον μὲν ἐπὶ τίνι προικί οὗτος ἐγγυῆσαι τῷ Πύρρῳ φησὶ τὴν ἀδελφήν, ἔπειτα πρὸς ὁποῖον ἀρχοντα ἢ ἐγγυητῇ

<sup>1</sup> ἔξειν Reiske: ἔχειν.

<sup>2</sup> ταυτ' ἂν Aldus: ταῦτα.

<sup>3</sup> ὥς γε Aldus: ὥστε.

<sup>4</sup> ἐπίλαβε Stephanus: ἐπίβαλλε.

<sup>5</sup> πιστεύσετε Stephanus: πιστεύετε.



## ON THE ESTATE OF PYRRHUS, 75-78

whole estate and take her as his wife. By presenting, then, his daughter to the members of his ward without adopting my brother as his son, he might have obtained this result; whereas, by adopting my brother without introducing his daughter to the members of his ward, he made her illegitimate, as it was right that he should, and therefore incapable of succession, and left my brother heir to his estate. Further, to prove to you that our uncle never gave a marriage-feast and never thought fit to introduce his daughter, whom our opponents declare to be his legitimate child, to the members of his ward, though their statutes demand that this should be done, the clerk shall read you the deposition of the members of Pyrrhus's ward. Read this; and you, stop the water-clock.

### DEPOSITION

Now take the deposition which shows that Pyrrhus adopted my brother.

### DEPOSITION

After this will you regard the testimony of Nicodemus as more worthy of credence than the evidence provided by our uncle's own acts? <sup>a</sup> And will anyone attempt to persuade you that our uncle made a legal marriage with this woman who was a common courtesan? No, you will never, I am sure, believe it unless Nicodemus can explain the following points, which I mentioned at the beginning of my speech; First, with what dowry does he say that he married his sister to Pyrrhus? Secondly, before what archon did this married woman give a deposition taken in writing outside the court, is here rhetorically used for the evidence of a person's acts.

γυνὴ ἀπέλιπε τὸν ἄνδρα ἢ τὸν οἶκον [τὸν] αὐτοῦ,  
 εἴτα παρ' οὗτου ἐκομίσατο τὴν προῖκα αὐτῆς,  
 ἐπειδὴ τετελευτηκὼς ἦν ᾧ φησιν αὐτὴν ἐγγυῆσαι.  
 [46] ἢ εἰ ἀπαιτῶν μὴ ἐδύνατο κομίσασθαι | ἐν εἴκοσιν  
 ἔτεσιν, ὁποῖαν δίκην σίτου ἢ τῆς προικὸς αὐτῆς  
 ὑπὲρ τῆς ἐγγυητῆς γυναικὸς ἐδικάσατο τῷ ἔχοντι  
 79 τὸν Πύρρου κλῆρον οὗτος. ἔτι δὲ πρὸς τούτοις  
 ἐπιδειξάτω ὅτῳ πρότερον ἢ ὕστερον ἡγγύησεν  
 οὗτος τὴν ἀδελφήν, ἢ εἰ ἐξ ἄλλου τινὸς γεγεννημένοι  
 εἰσὶ παῖδες αὐτῇ. ταῦτα οὖν ἀξιούτε πυνθάνεσθαι  
 παρ' αὐτοῦ, καὶ περὶ τῆς τοῖς φράτορσι γαμηλίας  
 μὴ ἀμνημονεῖτε. οὐ γὰρ τῶν ἐλαχίστων πρὸς τὴν  
 τούτου<sup>1</sup> μαρτυρίαν τεκμήριόν ἐστι τοῦτο. δῆλον  
 γὰρ ὅτι, εἰ ἐπείσθη ἐγγυῆσασθαι, ἐπείσθη ἂν καὶ  
 γαμηλίαν ὑπὲρ αὐτῆς τοῖς φράτερσιν εἰσενεγκεῖν  
 καὶ εἰσαγαγεῖν τὴν ἐκ ταύτης ἀποφανθεῖσαν θυγα-  
 80 τέρα ὡς γνησίαν οὔσαν αὐτῷ. καὶ ἐν τε τῷ  
 δήμῳ κεκτημένος τὸν τριτάλαντον οἶκον, εἰ ἦν  
 γεγαμηκὼς, ἡναγκάζετο ἂν ὑπὲρ τῆς γαμετῆς  
 γυναικὸς καὶ θεσμοφόρια ἐστῖαν τὰς γυναῖκας, καὶ  
 τᾶλλα ὅσα προσήκε λητουργεῖν ἐν τῷ δήμῳ ὑπὲρ  
 τῆς γυναικὸς ἀπὸ γε οὐσίας τηλικαύτης. οὐ  
 τοίνυν φανείται οὐδὲν τούτων γεγεννημένον οὐδε-  
 πώποτε. οἱ μὲν οὖν φράτορες μεμαρτυρήκασιν  
 ὑμῖν· λαβὲ δὲ καὶ τὴν τῶν δημοτῶν τῶν ἐκείνου  
 μαρτυρίαν.

<ΜΑΡΤΥΡΙΑ>

<sup>1</sup> τούτου Aldus: τούτων.

<sup>a</sup> A festival in honour of Demeter and Persephone. The argument is particularly effective, since women of evil life were rigorously excluded from this festival (cf. vi. 49, 50).

notice of having quitted her husband or his domicile ? Next, from whom did Nicodemus recover her dowry, when the man had died to whom he says that he gave her in marriage ? Or if, though he demanded it back, he was unable to recover in the course of twenty years, what action did he bring for alimony or for her dowry on behalf of this married woman against the tenant of Pyrrhus's estate ? Furthermore, in addition to all this, let him explain to whom he married his sister at an earlier or later date and whether she had children by another man. These, then, are the questions which you must make him answer, and do not forget to interrogate him also about the marriage-feast to the members of his ward. This is among the proofs which are most damaging to his evidence ; for it is obvious that if Pyrrhus was induced to marry this woman, he would also have been induced to give a marriage-feast for her to the members of his ward and to introduce to them the child, who has been declared to be this woman's daughter, as his legitimate offspring. Again in his deme, since he possessed the fortune of three talents, he would have been obliged on behalf of this wedded wife of his to entertain the wives of his fellow-demesmen at the Thesmophoria,<sup>a</sup> and to perform for her the other offices which the possession of such a fortune entails. It shall therefore be made clear to you that nothing of the kind has ever been done. The members of his ward have already given you their evidence ; take now and read the deposition of Pyrrhus's fellow-demesmen.

## DEPOSITION



IV. ON THE ESTATE OF  
NICOSTRATUS

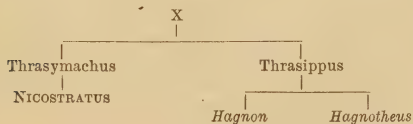


## IV. ON THE ESTATE OF NICOSTRATUS

### INTRODUCTION

NICOSTRATUS,<sup>a</sup> a soldier of fortune, after having been absent from Athens for eleven years, died on foreign service and left a fortune of two talents. Numerous claimants came forward, but eventually only two parties persisted in their claims—two young men, the brothers Hagnon and Hagnotheus, and a certain Chariades. Chariades, who alleged that he had served as a mercenary in the same army as Nicostratus, produced a will, under the terms of which Nicostratus adopted him as his son and made him his heir. Hagnon and Hagnotheus contested the genuineness of this will, and claimed the succession on the ground that they were the next-of-kin, as sons of Thrasippus, the brother of Nicostratus's father Thrasymachus, and therefore first cousins of the deceased.

#### <sup>a</sup> STEMMMA



## ISAEUS

The present speech, which is a supplementary discourse (ἐπίλογος), is spoken by a family friend of the two young men, who, in view of their youth, would naturally rely on the advocacy of an older and more experienced speaker. The writer of the Argument prefixed to the Speech states that the advocate was Isaeus himself: this is hardly likely, since the personal advocacy of a professional speech-writer would have prejudiced the interests of his clients, and, further, it is more than probable that Isaeus was not an Athenian citizen, and that he would, therefore, have had no *locus standi* in the courts. The statement of the Argument is probably due to a misunderstanding of the opening words of the speech.

Chariades, who based his claim on a will, had produced witnesses in support of its genuineness; he had also alleged that Nicostratus was the son not of Thrasymachus but of Smicrus. The two main points, therefore, which the claimants had to prove were, first, that they were really the first cousins of the deceased, and, secondly, that the will was a forgery. It is possible that the elder of the two brothers had already dealt with these topics, which are very inadequately treated in the present speech. On the question of Nicostratus's parentage each party produced evidence in support of their respective contentions; as regards the genuineness of the will, the speaker has no better argument to urge than that the witnesses to the alleged will were friends of Chariades and therefore untrustworthy. The speech consists mainly of rhetorical commonplaces, attempts to blacken the character of Chariades and eulogies of his two opponents.



## ON THE ESTATE OF NICOSTRATUS

If Valckenaer's emendation (ἐξ Ἀκῆς, § 7) is accepted, the date of the speech must be placed soon after 374 B.C., since Ace, the modern Acre, was the rendezvous of the army assembled by Pharnabazus for his expedition to Egypt in that year.

## IV. ΠΕΡΙ ΤΟΥ ΝΙΚΟΣΤΡΑΤΟΥ ΚΛΗΡΟΥ 〈ΕΠΙΛΟΓΟΣ〉

### ΥΠΟΘΕΣΙΣ

Νικοστράτου ἐν ὑπερορία τελευτήσαντος, "Αγνων καὶ Ἐγνόθεος ὡς ὄντες ἀνεψιοὶ ἐκ πατραδέλφου ἀμφισβητοῦσι τοῦ κλήρου πρὸς Χαριάδην, φάσκοντα κληρονόμον αὐτοῦ εἶναι κατὰ δόσιν, ὃ ἔστι κατὰ διαθήκας. Ἰσαῖος οὖν ὁ ῥήτωρ, ὡς συγγενὴς ὢν τῶν περὶ τὸν "Αγωνα, λέγει συνηγορῶν αὐτοῖς. ἡ στάσις στοχασμός.

- 1 Ἐπιτήδειοί μοι τυγχάνουσιν, ὦ ἄνδρες, ὄντες "Αγνων τε οὐτοσὶ καὶ Ἐγνόθεος, καὶ ὁ πατὴρ αὐτῶν ἔτι πρότερον. εἰκὸς οὖν μοι δοκεῖ εἶναι, ὡς ἂν οἷός τε ὦ, συνειπεῖν αὐτοῖς.

- Περὶ μὲν οὖν τῶν ἐν τῇ ὑπερορία πραχθέντων [ὡς] οὔτε μάρτυρας ἐξευρεῖν οἷόν τε, οὔτε τοὺς ἀντιδίκους, εἴαν τι ψεύδωνται, ἐλέγχειν ῥάδιον, διὰ τὸ μηδέτερον τούτων ἐκείσε ἀφίχθαι· τὰ δὲ ἐνθάδε [μοι] συμβεβηκότα δοκεῖ μοι ὑμῖν ἱκανὰ γενέσθαι ἂν τεκμήρια, ὅτι ἅπαντες οἱ κατὰ τὴν δόσιν τῶν Νικοστράτου ἀμφισβητοῦντες ἐξαπατῆσαι ὑμᾶς  
2 βούλονται. πρῶτον μὲν οὖν, ὦ ἄνδρες, περὶ τῆς τῶν ὀνομάτων ἐπιγραφῆς ἄξιόν ἐστιν ἐξετάσαι, καὶ σκέψασθαι ὁπότεροι ἀπλούστερον καὶ κατὰ φύσιν

<sup>a</sup> This statement is improbable ; see Introduction, p. 128.

## IV. ON THE ESTATE OF NICOSTRATUS SUPPLEMENTARY SPEECH

### ARGUMENT

Nicostratus having died in a foreign land, Hagnon and Hagnotheus, as being his first cousins (their father having been brother to Nicostratus's father), contend for the succession to his estate against Chariades, who claims to be heir by bequest, that is to say, by will. Isaeus, the orator, being a kinsman of Hagnon and his brother, speaks as their advocate.<sup>a</sup> The question at issue is one of fact.

Hagnon here and Hagnotheus, gentlemen, are intimate friends of mine, as was their father before them. It seems, therefore, only natural to me to support their case to the best of my ability.

For the events which happened in a foreign land it is not possible to find witnesses or easy to convict our adversaries of any lies which they may tell, because neither of my clients has ever been to the country in question; but the events which have occurred here in Athens seem to me to provide you with sufficient proof that all those who lay claim to Nicostratus's estate on the ground of bequest are desirous of deceiving you. In the first place, gentlemen, it is proper that you should consider the different names attributed to the deceased and determine which of the two parties has laid

μᾶλλον τὰς λήξεις ἐποιήσαντο. "Αγνων μὲν γὰρ  
 οὔτοσὶ καὶ Ἀγνόθεος Θρασυμάχου ἐπεγράψαντο  
 τὸν Νικόστρατον, καὶ ἑαυτοὺς ἐκείνῳ ἀνειψίους  
 ἀποφαίνουσι, καὶ τούτων μάρτυρας παρέχονται.  
 3 Χαριάδης δὲ καὶ οἱ συνδικοῦντες αὐτῷ Σμίκρου  
 μὲν πατρὸς εἶναί φασι τὸν Νικόστρατον, ἀμφι-  
 σβητοῦσι δὲ τοῦ Θρασυμάχου υἱοῦ κλήρου. καὶ οἶδε  
 μὲν οὐδέν<sup>1</sup> προσποιοῦνται ἐκείνου τοῦ ὀνόματος  
 οὔτε γινώσκειν οὔτε προσήκειν αὐτοῖς· φασὶ μὲν  
 οὖν εἶναι Θρασυμάχου Νικόστρατον, τούτου δὲ  
 4 ὁμοίως τῆς οὐσίας ἀμφισβητοῦσι. καὶ εἰ μὲν τὸ  
 ὄνομα πατρόθεν τὸ αὐτὸ ὠμολόγουν εἶναι τοῦ  
 Νικοστράτου, περὶ δὲ τοῦ κλήρου μόνου διεφέροντο,  
 οὐδὲν ἂν ἔδει ὑμᾶς σκέψασθαι ἄλλ' <ἤ><sup>2</sup> εἴ τι  
 διέθετο ἐκεῖνος ὁ Νικόστρατος, ὃν ἀμφοτέροι  
 ὠμολόγουν· νῦν δὲ πῶς οἷόν τε τῷ ἀνδρὶ δύο  
 πατέρας ἐπιγράψασθαι; τοῦτο γὰρ Χαριάδης  
 πεποίηκεν· αὐτὸς τε γὰρ ἔλαχε <τῶν><sup>3</sup> τοῦ Σμίκρου  
 Νικοστράτου, τούτοις τε<sup>4</sup> <τῶν> τοῦ Θρασυμάχου  
 5 λαχοῦσι παρακατέβαλεν ὡς τὸν αὐτὸν ὄντα. ἔστι  
 μὲν οὖν ἅπαντα ταῦτα ἐπήρεια καὶ παρασκευή.  
 ἡγοῦνται γὰρ τούτους, ἀπλοῦ μὲν ὄντος τοῦ πράγ-  
 [47] ματος καὶ μηδεμιᾶς αὐτοῖς | ταραχῆς ἐγγιγνομένης,  
 οὐ χαλεπῶς ἐπιδείξειν ὅτι οὐδὲν Νικόστρατος  
 διέθετο· ἐὰν δὲ μὴ τὸν πατέρα τὸν αὐτὸν εἶναι  
 φῶσι, τοῦ δὲ κλήρου μηδὲν ἦττον ἀμφισβητῶσιν,  
 ἀκριβῶς ἴσασιν ὅτι πλείονι λόγῳ εἰπεῖν τουτουσὶ  
 δεήσει ὡς Νικόστρατος Θρασυμάχου ἦν ἢ ὡς οὐδὲν  
 6 διέθετο. ἔτι δὲ καὶ ὁμολογοῦντες Θρασυμάχου

<sup>1</sup> οὐδὲν Stephanus: οὐδὲ.

<sup>3</sup> τῶν . . . τῶν add. Hitzig.

<sup>2</sup> ἢ add. Reiske.

<sup>4</sup> τε Fuhr: δὲ.

## ON THE ESTATE OF NICOSTRATUS, 2-6

his claim in the more straightforward and natural manner. Hagnon here and Hagnotheus described Nicostratus in their claim as the son of Thrasy-machus and declare that they are his first cousins and prove these statements by witnesses. Chariades and his supporters, on the other hand, assert that Nicostratus was the son of Smicrus and yet claim the estate of the son of Thrasy-machus. My clients make no pretence that they know anything of the name of Smicrus or that it has anything to do with them; they declare that Nicostratus was the son of Thrasy-machus, and it is likewise his estate which they claim. If the parties were in agreement as to the name of Nicostratus's father and were disputing only about the estate, you would only have to consider whether Nicostratus, on whose identity both were agreed, did or did not leave a will. But as it is, how is it possible to assign two fathers to the man? Yet this is what Chariades has done; he himself claimed the estate of Nicostratus the son of Smicrus, and paid the deposit for a suit against my clients when they claimed the estate of the son of Thrasy-machus, just as though it were a question of one and the same person. It is all an insolent plot and conspiracy. They think that my clients, if the matter is simple and nothing is introduced to confuse the issue, will have no difficulty in proving that Nicostratus made no will; whereas, if they allege that the father is not the same and likewise claim the estate, they know full well that my clients will have to employ a longer argument to prove that Nicostratus was the son of Thrasy-machus than to convince you that he left no will. Further, if they admitted that Nicostratus was the

μὲν εἶναι τὸν Νικόστρατον οὐκ ἂν εἶχον ἐξελέγξαι  
τούσδε ὥς οὐκ εἰσὶν ἐκείνῳ ἀνεψιοί· ἄλλον δὲ  
πατέρα τῷ τεθνεῶτι κατασκευάζοντες οὐ μόνον  
περὶ τῶν διαθηκῶν ἀλλὰ καὶ περὶ τοῦ γένους λόγον  
ἐμβεβλήκασιν.

- 7 Οὐκ ἐκ τούτων δὲ μόνον γνοίητ' ἂν ὅτι ἀλλότριοί<sup>1</sup>  
τινες εἰσιν οἱ ταῦτα ἐπὶ τουτουσὶ ἐπάγοντες, ἀλλὰ  
καὶ ἐκ τῶν κατ' ἀρχὰς γεγενημένων. τίς γὰρ οὐκ  
ἀπεκείρατο, ἐπειδὴ τῷ δύο ταλάντῳ ἐξ Ἀκῆς<sup>2</sup>  
ἡλθέτην<sup>3</sup>; ἢ τίς οὐ μέλαν ἱμάτιον ἐφόρησεν,<sup>4</sup> ὥς  
διὰ τὸ πένθος κληρονομήσων τῆς οὐσίας; ἢ πόσοι  
συγγενεῖς καὶ υἱεῖς κατὰ δόσιν προσεποιήσαντο τῶν  
8 Νικοστράτου; Δημοσθένης μὲν γε ἀδελφιδοῦς ἔφη  
αὐτῷ εἶναι, ἐπειδὴ δ' ἐξηλέγχθη ὑπὸ τούτων,  
ἀπέστη. Τήλεφος δὲ δοῦναι αὐτῷ Νικόστρατον  
ἅπαντα τὰ ἑαυτοῦ. καὶ οὗτος οὐ πολλῷ ὕστερον  
ἐπαύσατο. Ἀμεινιάδης<sup>5</sup> δὲ ὑὸν αὐτῷ πρὸς τὸν  
ἄρχοντα ἤκεν ἄγων οὐδὲ τριετῇ γεγονότα, καὶ ταῦτ'  
οὐκ ἐπιδεδημηκότος τοῦ Νικοστράτου ἔνδεκα ἐτῶν  
9 Ἀθήνησι. Πύρρος δὲ ὁ Λαμπρεὺς τῇ μὲν  
Ἀθηνᾷ ἔφη τὰ χρήματα ὑπὸ Νικοστράτου καθ-  
ιερώσθαι, αὐτῷ δ' ὑπ' αὐτοῦ ἐκείνου δεδόσθαι.  
Κτησίας<sup>6</sup> δ' ὁ Βησαιεὺς καὶ Κραναὸς τὸ μὲν  
πρῶτον δίκην ἔφασαν τοῦ Νικοστράτου ταλάντου  
καταδεδικάσθαι, ἐπειδὴ δ' οὐκ εἶχον τοῦτο ἀπο-  
δεῖξαι, ἀπελεύθερον αὐτὸν ἑαυτῶν προσεποιήσαντο

<sup>1</sup> ἀλλότριοι Boekmeijer: ἄλλοι.

<sup>2</sup> ἐξ Ἀκῆς Valckenaer: ἐξάκῃς. <sup>3</sup> ἡλθέτην Herwerden: -ον.

<sup>4</sup> ἐφόρησεν Baiter-Sauppe: ἐφόρεσεν.

<sup>5</sup> Ἀμεινιάδης Baiter-Sauppe: Ἀμεν-.

<sup>6</sup> Κτησίας Reiske: κτήσις.

<sup>a</sup> As a sign of mourning.

## ON THE ESTATE OF NICOSTRATUS, 6-9

son of Thrasymachus, they would be unable to prove that my clients are not his cousins ; but, by inventing another father for the deceased, they have introduced a discussion about his parentage as well as about the will.

But it is not only from these proceedings but from all that has happened from the beginning that you can be sure that those who are thus plotting against my clients are strangers to the family. For who did not cut the hair <sup>a</sup> when the two talents arrived from Ace <sup>b</sup> ? Who did not wear black, hoping by mourning to inherit the estate ? What was the number of would-be kinsmen and adopted sons who claimed Nicostratus's property ? Demosthenes declared himself to be his nephew, but renounced his claim when he was unmasked by my clients. Telephus asserted that Nicostratus had made him a gift of all his property ; he too soon desisted. Ameiniades appeared before the archon and produced as Nicostratus's son a child not yet three years old, although it was eleven years since Nicostratus had been in Athens. Pyrrhus of Lamptra declared that the property had been consecrated by Nicostratus to Athena but that it had been given him by Nicostratus himself.<sup>c</sup> Ctesias of Besa and Cranaus at first asserted that Nicostratus had been condemned to pay them a talent ; when they could not prove this, they pretended that he was their freedman ; <sup>d</sup> they were no better able to

<sup>b</sup> See Introduction, p. 129.

<sup>c</sup> The meaning is perhaps that Pyrrhus claimed a life-interest in the estate.

<sup>d</sup> If a freedman died without issue, his property could, under certain circumstances, be claimed by his former master.

- 10 εἶναι· καὶ οὐδ' οὗτοι ἂ ἔλεγον ἀπέδειξαν. καὶ οἱ μὲν εὐθὺς κατὰ τὰ πρῶτα ἐπὶ τὰ Νικοστράτου ἄξαντες οὗτοί εἰσι· Χαριάδης δὲ τότε μὲν οὐδαμοῦ ἡμφισβήτησεν, ὕστερον δὲ οὐ μόνον αὐτὸς <αὐτὸν><sup>1</sup> ἀλλὰ καὶ τὸ ἐκ τῆς ἐταίρας παιδίον εἰσποιῶν ἦλθε. ταυτό<sup>2</sup> δ' ἦν αὐτῷ ὡς ἡ τῶν χρημάτων κληρονομήσοντι ἢ τὸ παιδίον ἀστὸν ποιήσοντι. αἰσθημενος δὲ καὶ οὗτος ὅτι περὶ τοῦ γένους ἐλεγχθήσοιτο, τὴν μὲν τοῦ παιδίου ἀμφισβήτησιν παρέλυσεν, ἑαυτῷ δὲ κατὰ δόσιν παρακατέβαλεν.
- 11 Ἐχρῆν μὲν οὖν, ὧ ἄνδρες, ὅστις κατὰ δόσιν χρημάτων ἀμφισβητῶν ἡττηθείη, μὴ κατὰ τὸ τέλος ζημιουῖσθαι, ἀλλ' ἐφ' ὅσα περ ληψόμενος ἦει,<sup>3</sup> τοσαῦτα τῇ πόλει ἀποτίνειν· οὕτω γὰρ <ἂν><sup>4</sup> οὕθ' οἱ νόμοι κατεφρονοῦντο οὕτε τὰ γένη ὑβρίζετο, πρὸ δὲ τούτων οὐδ' ἂν τῶν τεθνεώτων οὐδεὶς κατεψεύδετο. ἐπειδὴ δὲ ἅπασιν καὶ τῶν ἀλλοτρίων ἀπάντων, καθ' ὃ τι ἂν τις βούληται, ἀμφισβητεῖν ἔξεστιν, ὑμᾶς χρὴ περὶ αὐτῶν ὡς οἷόν τ' ἀκριβέστατα ἐξετάζειν
- 12 καὶ μηδὲν εἰς ὅσον δύνασθε παραλείπειν. ἐν μόνασι δὲ ταῖς τῶν κλήρων εἰσαγωγαῖς δοκεῖ μοι προσήκειν τεκμηρίοις μᾶλλον ἢ μάρτυσι πιστεύειν. περὶ μὲν γὰρ τῶν ἄλλων συμβολαίων οὐ πάνυ χαλεπὸν τοὺς τὰ ψευδῇ μαρτυροῦντας ἐλέγχειν· ζῶντος γὰρ καὶ παρόντος τοῦ πράξαντος καταμαρτυροῦσι· περὶ δὲ τῶν διαθηκῶν πῶς ἂν τις γνοίῃ τοὺς μὴ τάληθῇ λέγοντας, εἰ μὴ πάνυ μεγάλα τὰ διαφέροντα εἴη, αὐτοῦ μὲν καθ' οὗ μαρτυροῦσι τεθνεώτος,

<sup>1</sup> αὐτὸν add. Boekmeijer.

<sup>2</sup> ταυτό Sauppe: τοῦτο.

<sup>3</sup> ἦει Bekker: ἦ.

<sup>4</sup> ἂν add. Reiske.

<sup>a</sup> One-tenth of the estimated value of the estate claimed.



prove their statement. These were the men who at the very beginning swooped down upon the estate of Nicostratus. Chariades at that time made no claim, but came forward later, foisting in not only himself but also his child by his mistress. It was all the same to him whether he was going to inherit the estate or have his son recognized as a citizen. He, too, perceiving that he would be defeated on the question of the child's birth, jettisoned the child's claim and paid a deposit to bring an action asserting his own right under a will.

It would be a good thing, gentlemen, that any claimant to an inheritance under a will, if he fails, should not be fined at the usual rate <sup>a</sup> but be made to pay into the treasury the full amount of the fortune which he set out to obtain; thus the laws would not be despised nor would the relatives be insulted, and above all, no fictions would be invented against the dead. But, since full liberty is given to anyone according to his fancy to claim anyone else's estate, it behoves you to sift their claims with every possible care and to omit no possible precaution. It seems to me that in suits concerning inheritances, and in these alone, more credit ought to be given to circumstantial proof than to the statements of witnesses. When other legal instruments are the subject of litigation, it is not very difficult to convict those who give false evidence, for they give their evidence to the prejudice of the supposed party to the deed alive and present; but when a will is in question, how can one recognize those who are not telling the truth, unless the divergences in the evidence are great, since the party against whom they bear witness is dead, the

- τῶν δὲ συγγενῶν μηδὲν τῶν πεπραγμένων εἰδότην,  
 13 τοῦ δὲ ἐλέγχου μηδαμῶς ἀκριβοῦς γιγνομένου; ἔτι  
 δέ, ὦ ἄνδρες, καὶ τῶν διατιθεμένων οἱ πολλοὶ οὐδὲ  
 λέγουσι τοῖς παραγιγνομένοις ὅ τι διατίθενται, ἀλλ'  
 αὐτοῦ μόνου, τοῦ καταλιπεῖν διαθήκας, μάρτυρας  
 παρίστανται, τοῦ δὲ συμβαίνοντός ἐστι καὶ γραμ-  
 ματεῖον ἀλλαγῆναι καὶ τὰναντία ταῖς τοῦ τεθνεώτος  
 διαθήκαις μεταγραφῆναι· οὐδὲν γὰρ μᾶλλον οἱ μάρ-  
 τυρες εἴσονται, εἰ ἐφ' αἷς ἐκλήθησαν διαθήκαις,  
 14 αὗται ἀποφαίνονται.<sup>1</sup> ὁπότε δὲ καὶ τοὺς ὁμολογου-  
 μένως παραγενομένους οἷόν τ' ἐστὶν ἐξαπατήσαι,  
 πῶς οὐκ ἂν ὑμᾶς γε τοὺς μηδὲν τοῦ πράγματος  
 εἰδότης πολὺ [μᾶλλον] ἐτοιμότερόν τις παρα-  
 κρούσασθαι ἐγχειρήσειεν<sup>2</sup>;  
 [48] Ἀλλὰ μὴν καὶ ὁ νόμος, ὦ | ἄνδρες, οὐκ ἐάν τις  
 διαθῇται μόνον, κυρίας εἶναι κελεύει τὰς διαθήκας,  
 ἀλλὰ ἐὰν εὖ φρονῶν. σκεπτέον δὴ<sup>3</sup> ὑμῖν πρῶτον  
 μὲν εἰ ἐποίησατο τὰς διαθήκας, ἔπειτα εἰ μὴ  
 15 παρανοῶν διέθετο. ἀντιλεγόντων δ' ἡμῶν μηδὲ  
 τὸ παράπαν γενέσθαι τὰς διαθήκας, ἐκ τίνος ἂν  
 τρόπου, εἴ τις παρανοῶν διέθετο, γνοίητε, πρὶν  
 περὶ αὐτοῦ τοῦ διαθέσθαι πιστεῦσαι; τοὺς μὲν οὖν  
 κατὰ τὴν δόσιν ἀμφισβητοῦντας ὁρᾶτε ὅσον ἔργον  
 ἐστὶν αἰσθέσθαι εἰ ἀληθῆ λέγουσι, τοὺς δὲ κατὰ τὸ  
 γένος πρῶτον μὲν οὐδὲν δεῖ μάρτυρας παρασχέσθαι  
 ὥς αὐτῶν ἐστὶν ὁ κληρὸς (παρὰ πάντων γὰρ ὡμολό-  
 γηται τοῖς ἐγγυτάτῳ γένους τὰ τοῦ τελευτήσαντος  
 16 γίγνεσθαι), ἔπειτα οἱ νόμοι οὐ μόνον οἱ περὶ τῶν

<sup>1</sup> ἀποφαίνονται Dobree : -οιντο.

<sup>2</sup> ἐγχειρήσειεν Scheibe : -ήσαι.

<sup>3</sup> δὴ Reiske : δ'.

relatives know nothing of the facts, and the method of refuting the evidence is by no means clear? Further, gentlemen, most of those who make wills do not even mention to those who are present the purport of their will, but only invite them to attest the fact that they have made a will, and it is within the range of possibility that a will has been substituted or alterations made in a sense directly opposed to the wishes of the deceased; for the witnesses will have no more knowledge than anyone else whether the will produced is that which they were summoned to attest. Since, then, it is possible to deceive those who were admittedly present when the will was made, how much more easily might an attempt be made to impose upon you who know nothing of the matter?

Again, gentlemen, the law ordains that a will in order to be valid must not merely be executed but executed by a man in his right senses. You ought, therefore, to examine, first, whether the deceased made a will and, secondly, whether he was in his right mind at the time. Since, however, we deny that a will was made at all, how can you decide whether that a man was insane when he made a will, until you are convinced that actually he made a will? Observe, then, how difficult it is to discover whether those who claim under a will are telling the truth; those, on the other hand, who claim by right of kinship, in the first place, need not produce witnesses to prove that the inheritance is theirs—for it is universally admitted that the property of a deceased person devolves on his next-of-kin—and, secondly, the laws, not only those which deal with consanguinity but

- γενῶν ἀλλὰ καὶ οἱ περὶ τῶν δόσεων τοῖς συγγενέσι βοηθοῦσι. δοῦναι μὲν γὰρ ὁ νόμος οὐδενὶ ἐᾷ τὰ ἑαυτοῦ, ἐὰν ὑπὸ γήρως ἢ ὑπὸ νόσου ἢ ὑπὸ τῶν ἄλλων ᾧ καὶ ὑμεῖς ἴστε παρανοήσῃ· κατὰ δὲ τὸ γένος καὶ τὰ τοῦ ὁπωσοῦν διακειμένου ὁ ἐγγύτατα
- 17 γένους ἀναμφισβητήτως λαμβάνει. χωρὶς δὲ τούτων ταῖς μὲν διαθήκαις διὰ μαρτύρων ὑμᾶς δεῖ πιστεῦσαι, ὑφ' ὧν ἔνι καὶ ἐξαπατηθῆναι (οὐ γὰρ ἂν ἦσαν ψευδομαρτυρίων ἐπισκῆψεις), τῇ δ' ἀγχιστεία δι' ὑμῶν αὐτῶν· κατὰ γὰρ τοὺς νόμους οἱ συγγενεῖς
- 18 ἀμφισβητοῦσιν, οὓς ὑμεῖς ἔθεσθε. πρὸς δὲ τούτοις, ὦ ἄνδρες, εἰ μὲν οἱ κατὰ τὰς διαθήκας ἀμφισβητοῦντες ὁμολογουμένως Νικοστράτῳ ἐπιτήδειοι ὄντες ἐτύγχανον, τὸ μὲν ἀκριβὲς οὐδ' ἂν οὕτως, ὅμως μέντοι μᾶλλον εἰκὸς ἦν ἀληθεῖς εἶναι δόξειν τὰς διαθήκας· ἥδη γάρ τινες οὐκ εὖ διακείμενοι τοῖς συγγενέσιν ὀθνεῖους φίλους τῶν πάνυ σφόδρα προσηγόντων περὶ πλείονος ἐποιήσαντο· νῦν δὲ οὔτε συσσίτους οὔτε φίλους οὔτ' ἐν τάξει τῇ αὐτῇ . . . τούτων δ' ὑμῖν μάρτυρας ἀπάντων παρεσχήμεθα.
- 19 ὁ δὲ μέγιστον, καὶ μάλιστα τῆς Χαριάδου ἀναιδείας καταμαρτυρεῖ, τοῦτο σκέψασθε. ὅπου γὰρ τὸν αὐτὸν ποιησάμενον οὔτ' ἀποθανόντα ἀνείλετο οὔτ' ἔκαυσεν οὔτε ὠστολόγησεν, ἀλλὰ πάντα τοῖς μηδὲν προσήκουσι παρῆκε ποιῆσαι, πῶς οὐκ <ἂν><sup>1</sup> ἀνοσιώτατος εἴη, ὃς τῷ τεθνεῶτι μηδὲν τῶν νομιζο-

<sup>1</sup> ἂν add. Bekker.

<sup>a</sup> There is a lacuna in the text at this point and the sense is incomplete as it stands.

also those which treat of testamentary disposition, are in favour of kinsmen. For the law allows no one to dispose of his own property if his reason is impaired by old age or disease or the other causes with which you are familiar ; but by right of relationship the next-of-kin has an undisputed title to the property of a deceased person, whatever was the state of the latter's faculties. Beside this, in order to believe in a will, you are obliged to rely on witnesses, by whom it is possible to be deceived—if this were not so, there would be no prosecutions for perjury—but when the claim is based on kinship, you act on your own authority, for the next-of-kin assert their right in accordance with the laws which you have laid down. In addition to this, gentlemen, if those who claim under the will were admittedly close friends of Nicostratus, even then the conclusive proof would be lacking, though there would be a greater probability that the will could be regarded as genuine ; for before now testators, being ill-disposed towards their kinsmen, have preferred strangers who were their friends to their nearest relatives by blood. But in the present case Nicostratus and Chariades were neither members of the same mess nor friends nor members of the same company,<sup>a</sup> and on all these points we have produced witnesses before you. And consider this further point, which is of great importance and is the clearest possible proof of Chariades' impudence. Whereas he neither took up the body of his adopted father nor committed it to the flames nor collected the bones, but left all these duties to be done by complete strangers, should he not be regarded as most impious in claiming to inherit the property

- μένων ποιήσας τῶν χρημάτων αὐτοῦ κληρονομεῖν  
 20 ἀξιοῖ; ἀλλὰ νῆ Δία ἐπειδὴ τούτων οὐδὲν ἐποίησε,  
 τὴν οὐσίαν τοῦ Νικοστράτου<sup>1</sup> διεχείρισεν; ἀλλὰ  
 καὶ ταῦτα μεμαρτύρηται ὑμῖν, καὶ τὰ πλείστα οὐδ'  
 αὐτὸς ἀρνεῖται. προφάσεις δὲ οἶομαι ἀναγκαίας  
 ἐφ' ἐκάστας τῶν πράξεων εὐρῆσθαι· τί γὰρ ὑπο-  
 λείπεται τῷ διαρρήδην ὁμολογοῦντι;  
 21 Σαφῶς μὲν οὖν ἴστε, ὦ ἄνδρες, ὅτι οὗτοι οὐ  
 δικαίως τῶν Νικοστράτου<sup>1</sup> ἐφίενται, ἀλλὰ βού-  
 λονται μὲν ὑμᾶς ἐξαπατῆσαι, τουτουσὶ δὲ συγ-  
 γενεῖς ὄντας ἐκείνου, ἃ οἱ νόμοι ἔδωσαν αὐτοῖς,  
 ἀποστερῆσαι. οὐ μόνος<sup>2</sup> δὲ Χαριάδης τοῦτο πεποίη-  
 κεν, ἀλλὰ καὶ ἄλλοι πολλοὶ ἤδη τῶν ἐν τῇ ὑπερ-  
 ορίᾳ ἀποθνησκόντων οὐδὲ γινγνώσκοντες ἐνίους τῆς  
 22 οὐσίας ἡμφισβήτησαν· ἐνθυμοῦνται γὰρ ὅτι κατ-  
 ορθώσασι μὲν <ἔσται><sup>3</sup> τὰ ἀλλότρια ἔχειν, δι-  
 αμαρτοῦσι δὲ μικρὸς ὁ κίνδυνος· μαρτυρεῖν δὲ καὶ  
 τὰ ψευδῇ τινες ἐθέλουσιν, οἱ δ' ἔλεγχοι περὶ ἀ-  
 φανῶν. συνελόντι πολὺ τὸ διαφέρον κατὰ γένος ἢ  
 κατὰ δόσιν ἀμφισβητεῖν. ἀλλ' ὑμᾶς χρή, ὦ ἄνδρες,  
 πρῶτον μὲν τὰς διαθήκας σκοπεῖν, εἰ δοκοῦσι  
 γενέσθαι· τοῦτο γὰρ οἱ τε νόμοι <ὑφ>ηγοῦνται<sup>4</sup> καὶ  
 23 δικαιότατόν ἐστι. μὴ σαφῶς δὲ μήτ' αὐτοὺς τὴν  
 ἀλήθειαν εἰδότας, μήτε τῶν μαρτύρων τοῦ τελευ-  
 τήσαντος ἐπιτηδείων ὄντων, ἀλλὰ Χαριάδου τοῦ

<sup>1</sup> Νικοστράτου schedae Etonenses: στρατονίκου.

<sup>2</sup> μόνος Papabasileiou: μόνον.

<sup>3</sup> ἔσται add. Scheibe.

<sup>4</sup> <ὑφ>ηγοῦνται Schoemann.

## ON THE ESTATE OF NICOSTRATUS, 19-23

of the deceased, though he never performed any of the customary rites over him? Shall I be told that, after having performed none of these duties, he administered Nicostratus's property? <sup>a</sup> Evidence of these facts, too, has been given you, and even he himself does not deny most of them. Makeshift excuses have, of course, been found to explain all his acts; for what other resource remains to one who expressly admits the facts?

You must now be well aware, gentlemen, that these persons have no legal right to the property of Nicostratus, but wish to deceive you and to deprive my clients, who are his kinsmen, of an inheritance which lawfully belongs to them. Chariades is not the only person who has acted thus; many other claimants to the property of men who have died abroad have arisen, sometimes even without having been acquainted with them. For they consider that, if they are successful, it will be possible for them to enjoy the property of others, while, if they fail, the risk is inconsiderable; there are always men who are willing to perjure themselves, and the attempted refutations of their evidence are dealing with the unknown. In a word, there is a vast difference between claiming by right of kinship and claiming under a will. But your duty, gentlemen, is first of all to examine the will and decide whether you think that it is genuine; for this is what the laws enjoin and is the justest course. But since you have no certain personal knowledge of the truth, and since the witnesses to the will were friends not of the deceased but of Chariades, who wishes to seize

There is a further reference in § 26 to certain business relations between Nicostratus and Chariades.



τὰλλότρια βουλομένου λαβεῖν, τί ἂν εἴη<sup>1</sup> δικαιότερον ἢ τοῖς συγγενέσι τὰ τοῦ συγγενοῦς ψηφίζεσθαι; καὶ γὰρ εἴ τι οἶδε ἔπαθον, οὐδενὶ ἂν ἄλλῳ ἢ Νικοστράτῳ τὰ τούτων ἐγένετο<sup>2</sup>. κατὰ γὰρ τὸ αὐτὸ γένος ἂν ἡμφισβήτει, ἀνεψιὸς ὢν αὐτοῖς ἐκ πατρ-  
 24 ἀδέλφων. μὰ Δί' ἄλλ' οὐκ ἔστιν ὁ Ἄγων οὐδ' ὁ Ἀγνόθεος τοῦ Νικοστράτου συγγενής,<sup>3</sup> ὥς οἱ ἀντίδικοί φασιν, ἀλλ' ἕτεροι. ἔπειτα τῷ μὲν κατὰ τὴν δόσιν τοῦ κλήρου λαχόντι μαρτυροῦσιν, αὐτοὶ  
 [49] δὲ κατὰ τὸ γένος οὐκ ἀμφισβητήσουσιν; | οὐ γὰρ εἰς τοῦτό γε ἀνοίας ἦκουσιν ὥστε πιστεύσαντες ταῖς διαθήκαις οὕτω ῥαδίως τοσούτων χρημάτων ἀφίστανται. ἀλλὰ μὴν καὶ ἐξ ὧν αὐτοὶ οὗτοι λέγουσι, τούσδε τοῖς συγγενέσιν αὐτοῖς ἐπι-  
 25 δικάσασθαι συμφέρει τῶν Νικοστράτου μᾶλλον ἢ Χαριάδην. εἰς γὰρ τὸν λοιπὸν χρόνον, εἰ μὲν οἶδε κατὰ τὸ γένος ἀμφισβητοῦντες λήψονται τὸν κλῆρον, ἐξέεται καὶ τούτοις, ὁπόταν βούλωνται, κατὰ τὸ γένος λαχοῦσιν ἐπιδείξαι ὑμῖν ὥς αὐτοὶ ἐγγυτέρω ἦσαν τοῦ Νικοστράτου, καὶ ὥς Σμίκρου ἦν καὶ οὐ Θρασυμάχου· ἐὰν δὲ Χαριάδης αὐτῶν κληρονομήσῃ, οὐκ ἔσται οὐδενὶ συγγενεῖ ἐπὶ τὰ Νικοστράτου ἐλθεῖν. κατὰ δόσιν γὰρ ἔχοντος τοῦ ἐπιδεδικασμένου, τί φανοῦνται λέγοντες οἱ κατὰ  
 [τὸ] γένος λαγχάνοντες;

<sup>1</sup> ἂν εἴη Reiske: ἂν τι.

<sup>2</sup> ἐγένετο M, Bekker: ἐγένοντο.

<sup>3</sup> συγγενής Stephanus: -εἷς.



property which does not belong to him, what could be juster than by your verdict to award the property of a kinsmen to his kinsmen? For, indeed, if anything had happened to my clients, their property would have passed to none other than Nicostratus; for he would have claimed it by the same right of kinship, being their first cousin, the son of their father's own brother. But, by Heaven, I am forgetting; Hagnon and Hagnotheus are not kinsmen of Nicostratus according to the allegation of our adversaries, but his kinsmen are quite different people. Are these kinsmen then bearing witness in favour of the claimant under the will rather than themselves contesting the property by right of kinship? Surely they are not so insane as to believe so easily in the will and renounce their claim to so much money! Nay, to judge from what these men themselves say, it is to the advantage of these supposed kinsmen themselves that my clients, rather than Chariades, should have the estate of Nicostratus adjudicated to them. For, if my clients, who claim by right of kinship, receive the estate, it will be always open to the supposed kinsmen whenever they like at any future date to claim the estate on the grounds of relationship, and prove to you that they are themselves more nearly related to Nicostratus, and that he was the son of Smicrus and not of Thrasymachus. On the other hand, if Chariades inherits the estate, it will never be possible for any relative to bring an action for the property of Nicostratus; for when once the property is in possession of one to whom it has been adjudicated in virtue of a will, what will those who claim by right of kinship be able reasonably to allege?

- 26 "Οπερ ἂν οὖν καὶ ὑμῶν ἕκαστος ἀξιῶσκει, τοῦτο καὶ τουτοισὶ τοῖς νεανίσκοις βεβαιώσατε. παρέσχοντο δ' ὑμῖν μάρτυρας πρῶτον μὲν ὡς ἀνεψιοὶ εἰσιν ἐκ πατραδέλφων Νικοστράτου, ἔπειτα δὲ ὡς οὐδεπώποτε ἐκείνῳ<sup>1</sup> διάφοροι ἦσαν, ἔτι δὲ καὶ ὡς ἔθαιψαν Νικόστρατον, πρὸς δὲ τούτοις ὡς Χαριάδης οὐτοσὶ οὐδαμῶς οὗτ'<sup>2</sup> ἐνθάδε οὗτ' ἐπὶ στρατεύματι ἐχρήτο Νικοστράτῳ, ἔτι δὲ καὶ τὴν κοινωνίαν, ἣ μάλισθ' οὗτος ἰσχυρίζεται, ψευδῇ οὔσαν.
- 27 Καὶ ἄνευ τούτων, ὦ ἄνδρες, ἄξιον ὑμῖν ἐξετάσαι ἐκατέρους αὐτῶν οἰοί εἰσι. Θράσιππος μὲν γὰρ ὁ Ἄγνωτος καὶ Ἄγνωθίου πατὴρ ἤδη τι καὶ ἐλητούργησεν ὑμῖν καὶ εἰσήνεγκε, καὶ ἄλλως σπουδαῖος ἦν πολίτης· αὐτοὶ δὲ οὗτοι οὐτε ἀποδεδημήκασιν οὐδαμοῖ<sup>3</sup> πώποτε, ὅποι ἂν μὴ ὑμεῖς προστάξῃτε, οὗτ' ἐνθάδε μένοντες ἄχρηστοί εἰσι τῇ πόλει, ἀλλὰ καὶ στρατεύονται καὶ εἰσφέρουσι καὶ τᾶλλα πάντα ποιοῦσι τὰ προσταττόμενα καὶ αὐτούς (ὡς πάντες
- 28 ἴσασι) κοσμίους παρέχουσιν, ὥστε πολὺ μᾶλλον τούτους προσήκει κατὰ δόσιν τῶν χρημάτων τῶν Νικοστράτου ἢ Χαριάδην ἀμφισβητεῖν. οὗτος γάρ, ὅτ' ἐπεδήμει ἐνθάδε, πρῶτον μὲν εἰς τὸ δεσμωτήριον ὡς κλέπτῃς ὣν ἐπ' αὐτοφώρῳ ἀπήχθη, τότε δὲ ἀφεθείς μεθ' ἐτέρων τινῶν ὑπὸ τῶν ἑνδεκα, οὓς δημοσίᾳ ἅπαντας ὑμεῖς ἀπεκτείνετε, πάλιν ἀπογραφεῖς εἰς τὴν βουλὴν κακουργῶν, ὑποχωρῶν
- 29 ὥχετο καὶ οὐχ ὑπήκουσεν, ἀλλ' ἀπ' ἐκείνου ἑπτα-

<sup>1</sup> ἐκείνῳ Aldus: ἐκεῖνοι.

<sup>2</sup> οὗτ' Bekker: οὐδ'.

<sup>3</sup> οὐδαμοῖ Bekker: -μῇ.

<sup>a</sup> The police-magistrates of Athens.

<sup>b</sup> The context seems to imply that these magistrates were

Whatever each of you would consider just on his own behalf, let that be your determination in favour of these young men. They have produced before you witnesses to prove, first, that they and Nicostratus are first cousins, the sons of own brothers ; secondly, that they never had any quarrel with him ; thirdly, that they carried out his burial ; and further that Chariades was never a friend of Nicostratus either here in Athens or in the army, and, lastly, that the supposed business association between them, on which Chariades most relies, is a fiction.

Apart from this, gentlemen, it is only right that you should examine the characters of the respective claimants. Thrasippus, the father of Hagnon and Hagnotheus, has before now supported public burdens and paid contributions and otherwise proved himself a worthy citizen. My clients themselves have never quitted this country unless they have been sent somewhere by your orders, and at home they are not unserviceable to the state ; they serve in the army, they make contributions and in every other respect perform what is required of them, and, as everyone knows, they behave as law-abiding citizens ; so that it is much more fitting that they should claim to receive the estate by gift than Chariades. The latter, when he resided here, was first caught in the act of theft and thrown into prison ; he was subsequently released with certain other criminals by the Eleven,<sup>a</sup> all of whom you publicly condemned to death,<sup>b</sup> and, having been again denounced to the Council as a malefactor, he absconded and did not appear to answer the charge,

tried and condemned for allowing prisoners to escape, but nothing is known of the circumstance.

καίδεκα ἐτῶν Ἀθήναζε οὐκ ἀφίκετο, πλὴν ἐπειδὴ  
 Νικόστρατος ἀπέθανε. καὶ ὑπὲρ μὲν ὑμῶν οὔτε  
 στρατείαν οὐδεμίαν ἐστράτευται οὔτε εἰσφορὰν  
 οὐδεμίαν εἰσενήνοχε, πλὴν εἴ τι ἄρα ἐξ ὅτου τῶν  
 Νικοστράτου ἡμφισβήτησεν, οὔτ' ἄλλ' οὐδὲν ὑμῖν  
 λελητούργηκεν. ἔπειτα τοιοῦτος ὢν οὐκ ἀγαπᾷ  
 εἰ μὴ τῶν ἡμαρτημένων δίκην δώσει, ἀλλὰ καὶ  
 30 τῶν ἀλλοτρίων ἀμφισβητεῖ. εἰ μὲν οὖν οἶδε φιλο-  
 πράγμονες ἢ ἄλλοις ὅμοιοι πολίταις ἦσαν, ἴσως ἂν  
 οὐ περὶ τῶν Νικοστράτου χρημάτων ἡμφισβήτηι,  
 ἀλλ' ὑπὲρ τοῦ σώματος ἡγωνίζετο· νῦν δ', ὧ ἄνδρες  
 δικασταί, τοῦτον μὲν ἄλλος, ἐάν τις βούληται,  
 31 τιμωρήσεται, τουτοισὶ δ' ὑμεῖς βοηθήσατε, καὶ μὴ  
 περὶ πλείονος ποιήσησθε τοὺς ἀδίκως τὰλλότρια  
 ἔχειν βουλομένους ἢ τοὺς γένει τῷ τεθνεῶτι προσ-  
 ἤκοντας καὶ χωρὶς τούτων ἤδη τι ἐκείνῳ εὖ-  
 εργετηκότας, ἀλλὰ καὶ τῶν νόμων ἀναμνησθέντες  
 καὶ τῶν ὀρκῶν οὓς ὠμόσατε, πρὸς δὲ τούτοις καὶ  
 τῶν μαρτυριῶν αἷς ἡμεῖς παρεσχήμεθα, τὰ δίκαια  
 ψηφίσασθε.

## ON THE ESTATE OF NICOSTRATUS, 29-31

and for seventeen years after this he never came near Athens, and only returned on the death of Nicostratus. He has never once served the state as a soldier nor made any contribution, except perhaps since he claimed Nicostratus's estate, nor has he performed any other public service. And now, though such is his character, so far from being content if he avoids punishment for his misdeeds, he actually claims the property of others ! If my clients were fond of quarrelling or resembled so many of their fellow-citizens, he would not perhaps be claiming Nicostratus's estate but would be on trial for his life. But, as it is, gentlemen, it shall be left to someone else, if he wishes, to punish him ; your care let it be to assist my clients, and not to show favour to those who wish unjustly to possess the property of others rather than to the next-of-kin of the deceased, who have besides already rendered him service. Remember the laws and the oaths which you swore and also the evidence which we have placed before you, and give your verdict in conformity with justice.



V. ON THE ESTATE OF DICAEOGENES



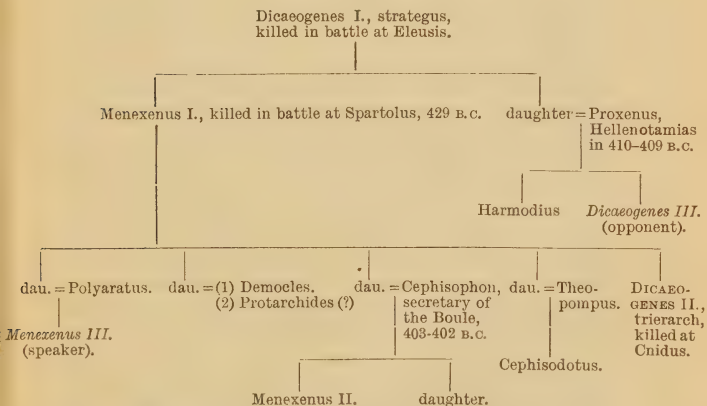


## V. ON THE ESTATE OF DICAEOGENES

### INTRODUCTION

THE chief personages concerned in this suit belonged to an important Athenian family, members of which had held high office in the state over a long period. Dicaeogenes II.,<sup>a</sup> whose estate is in dispute, was

#### <sup>a</sup> STEMMA<sup>1</sup>



<sup>1</sup> For further details see W. Wyse, *op. cit.* p. 403, and Kirchner, *Prosopographia Attica*, i. p. 256 (No. 3773).

## ISAEUS

killed in action in a naval engagement off the island of Cnidus. He left no issue, but had four married sisters. After his death Proxenus, the husband of his father's sister and a descendant of Harmodius, one of the slayers of the tyrant Hipparchus, produced a will under which his own son Dicaeogenes III., was posthumously adopted as son of the deceased and heir to one-third of his estate. No objections were raised to this will, and Dicaeogenes III. received his share, the other two-thirds being divided between the four sisters.

Twelve years later Dicaeogenes III. produced another will, under which the whole estate was bequeathed to him. By this time one of the sisters, the wife of Cephisophon, was dead, and two other sisters, the wives of Theopompus and Democles, had lost their husbands,<sup>a</sup> but Polyaratus, the husband of the eldest sister, was alive, and took up the cudgels on behalf of his wife and her surviving sisters. The court, however, decided in favour of Dicaeogenes III., who thus gained possession of the whole estate. Polyaratus, who had threatened to bring an action for perjury committed in this case, died before he could carry out his intention.

For ten years Dicaeogenes III. enjoyed the whole estate. Meanwhile the children of the sisters had grown up, and one of them, Menexenus II., the son of Cephisophon, brought a successful action for perjury against Lycon, who had been one of the witnesses in support of the genuineness of the second

<sup>a</sup> It is possible that the second sister, who had married Democles, divorced her husband, since the phrase *τὴν Δημοκλέους γενομένην γυναῖκα* (§ 9) means simply the "former wife of Democles." If the text is correct in § 26 (where see note), she seems afterwards to have married a certain Protarchides.

## ON THE ESTATE OF DICAEOGENES

will. This naturally alarmed Dicaeogenes III., who offered to restore to Menexenus II. his share of what would have come to his mother from his uncle's estate, on condition that he abstained from further action. Menexenus II. accepted the offer for himself, throwing over his cousins, who had the same rights as himself; Dicaeogenes III., however, failed to carry out his agreement. Menexenus, therefore, again made common cause with the other claimants, and they jointly demanded the restitution of the whole property as next-of-kin to an intestate estate, on the ground that both wills had been recognized by the court as invalid, the first having been annulled in favour of the second, and the second discredited by the conviction of Lycon for perjury.

This claim was met by Dicaeogenes III. by a protestation (*διαμαρτυρία*), which was lodged by a friend of his, Leochares, to the effect that the estate was not adjudicable to the next-of-kin, because Dicaeogenes III. had been recognized as adopted son of Dicaeogenes II. at the time of the latter's death. The claimants were thus obliged to withdraw their demand and to attack Leochares for false witness. At the trial, when the case went against Leochares, Dicaeogenes III. again offered a compromise, undertaking to surrender two-thirds of the estate. This arrangement was sanctioned by the court and accepted by the prosecutors; and two sureties, one of whom was Leochares, undertook to guarantee the fulfilment of Dicaeogenes III.'s promise.

Difficulties, however, soon arose owing to the fact that twenty-two years had elapsed since the death of the original testator and much of the property

## ISAEUS

had been sold or mortgaged, and quarrels arose about expenditure on building and repairs. Finding that there was practically nothing to be recovered from Dicaeogenes III., the claimants sued Leochares as surety. The cause of the nephews was this time championed by Menexenus III., the son of Polyaratus and the eldest sister of Dicaeogenes II. ; it was on his behalf that Isaeus wrote the present speech. The suit, though ultimately concerned with the estate of Dicaeogenes, is strictly speaking an action to compel Leochares to discharge his liability as surety.

Only a fraction of the speech deals with the subject of the surety. It is clear that Leochares would defend himself by arguing that Dicaeogenes III. had done his best to restore the two-thirds of the estate and pointing out that the written agreement made in court (which the speaker is careful not to produce) had never stated that the property was to be handed over free of all claim and liabilities. In reply the speaker can only urge that this document was hastily drawn up and did not contain all the conditions and must be supplemented by certain verbal agreements, in support of which he offered the evidence of witnesses who had been present in court when the compromise was effected. This argument would hardly recommend itself to a court of law and constitutes a great weakness in the case. The rest of the speech is devoted to blackening the character of Dicaeogenes III., who is represented as a plunderer of widows and orphans, an unpatriotic citizen and a shirker of military service, and eulogizing the disinterestedness, generosity, and patriotism of his opponents.

## ON THE ESTATE OF DICAEOGENES

The question of the date of the speech turns on the date of the action at Cnidus during which Dicaeogenes II. was killed, which had taken place twenty-two years earlier. The famous battle at Cnidus in 394 B.C., in which Conon defeated the Spartan fleet, cannot possibly be meant, since the suit claiming the whole estate, which was brought by Dicaeogenes III., twelve years after the death of Dicaeogenes II., was tried during the years of political disturbance which followed the close of the Peloponnesian war (*δυστυχισάσης τῆς πόλεως καὶ στάσεως γενομένης*, § 7). It is probable, therefore, that the action off Cnidus was the engagement near Syme in 411 B.C. (Thuc. viii. 42). The date of the speech must therefore be about 389 B.C. This theory is supported by the fact that at the date of the speech Athens was engaged in a serious war (§ 46)—no doubt the Corinthian war (394–386 B.C.)—and by the apparent allusion to the capture of Lechaeum (392 B.C.) as a recent event (§ 37).

## ΥΠΟΘΕΣΙΣ

Δικαιογένους τελευτήσαντος ἄπαιδος ἐπὶ τέσσαρσιν ἀδελφαῖς Πρόξενος ἦκεν διαθήκην ἔχων, ἐν ᾗ Δικαιογένης ὁ τελευτήσας τὸν υἱὸν αὐτοῦ, τοῦ Προξένου, Δικαιογένην υἱὸν θετὸν ἐποιήσατο ἐπὶ τῷ τρίτῳ μέρει τῆς οὐσίας. τοῦτον δὲ τὸν τρόπον διανεϊμαμένων αὐτῶν τὴν ὅλην οὐσίαν, τελευταῖον ἦλθεν ὁ υἱὸς Προξένου Δικαιογένης φάσκων ἐπὶ ὅλῃ τῇ οὐσίᾳ γεγονέναι υἱός, καὶ νικήσας ἀνέλαβε καὶ τὰ δύο μέρη τῶν ἀδελφῶν τοῦ τελευτήσαντος. ὕστερον πάλιν οἱ παῖδες τῶν ἀδελφῶν δικασάμενοι πρὸς Δικαιογένην ἐνίκησαν, καὶ συνέθετο Δικαιογένης ἀποδοῦναι πάλιν τὰ δύο μέρη αὐτοῖς καθαρὰ καὶ ἀνέπαφα, ἐγγυησαμένον ταῦτα Λεωχάρους. νῦν δὲ ἀρνούμενων τὰ δόξαντα τῶν περὶ Δικαιογένην καὶ Λεωχάρην, ἐγκαλοῦσιν οἱ παῖδες τῶν ἀδελφῶν περὶ τῶν δύο μερῶν τῷ μὲν ὡς συνθεμένῳ, τῷ δὲ ὡς ἐγγυητῇ. ἡ στάσις στοχασμός· ἀρνοῦνται γάρ.

- 1 Ὡς οἰόμεθα μὲν, ὦ ἄνδρες, περὶ ὧν διεφερόμεθα πρὸς Δικαιογένην, τὰ ὡμολογημένα ἐπὶ τοῦ δικαστηρίου κύρια ἡμῖν ἔσεσθαι· ἀποστάντος γὰρ Δικαιογένους τοῖν δυοῖν μεροῖν τοῦ κλήρου, καὶ ἐγγυητὰς καταστήσαντος ἢ μὴν παραδώσειν ἡμῖν ταῦτα τὰ μέρη ἀναμφισβήτητα, ἀφήκαμεν ἀλλήλους τῶν ἐγκλημάτων· ἐπειδὴ δέ, ὦ ἄνδρες, οὐ ποιεῖ Δικαιο-
- 158

## V. ON THE ESTATE OF DICAEOGENES

### ARGUMENT

On the death of Dicaeogenes (II.), who had no children but left four sisters behind him, Proxenus came forward and produced a will by which the deceased Dicaeogenes (II.) adopted his (Proxenus's) son Dicaeogenes (III.) and left him a third of his estate. After they had distributed the whole property on this basis, Dicaeogenes (III.), the son of Proxenus, eventually came and alleged that he had been adopted as heir to the whole property; he won his case and took possession, in addition to his own share, of the two-thirds which had been held by the sisters of the deceased. At a still later date the sons of the sisters brought a successful action against Dicaeogenes (III.), and he agreed to hand back to them the two-thirds clear and free of all charges, Leochares acting as surety for the performance of this promise. In the present suit, as Dicaeogenes (III.) and Leochares repudiate their agreement, the sons of the sisters claim the two-thirds from Dicaeogenes (III.), as having agreed to restore the property, and from Leochares as surety. The discussion turns on a question of fact; for the adversaries deny their engagement.

We thought, gentlemen, that in the matter of our dispute with Dicaeogenes (III.) the agreement arrived at in court would be conclusive; for when Dicaeogenes (III.) gave up the two-thirds of the estate and furnished sureties that he would hand over that portion to us without dispute, we reciprocally abandoned our claims. But, gentlemen, since Dicaeogenes (III.) does not perform his agreement,

## ISAEUS

γένης ἃ ὠμολόγησε, δικαζόμεθα Λεωχάρει ἐγγυητῇ  
2 γενομένῳ Δικαιογένους, ὥσπερ ἀντωμόσαμεν. καί  
μοι ἀνάγνωθι τὴν ἀντωμοσίαν.

### ΑΝΤΩΜΟΣΙΑ

Ὡς τοίνυν ἀληθῇ ἀντωμόσαμεν, Κηφισόδοτος οὐ-  
τοσὶ οἶδε, καὶ μάρτυρας ὑμῖν παρεξόμεθα πρῶτον  
μὲν ὡς ἀπέστη Δικαιογένης ἡμῖν τοῖν δυοῖν μεροῖν  
τοῦ κλήρου, εἶτα ὡς ἡγγυήσατο Λεωχάρης. καί  
μοι ἀνάγνωθι τὴν μαρτυρίαν.

### ΜΑΡΤΥΡΙΑ

3 Τῶν μὲν μαρτύρων ἀκηκόατε, καὶ ὡς οὐ τὰληθῇ  
μεμαρτυρήκασιν, οὐδ' ἂν αὐτὸν οἶμαι Λεωχάρην εἰ-  
πεῖν· ἴσως δὲ ἐπ' ἐκείνον τρέψεται τὸν λόγον, ὡς  
Δικαιογένης τε ἃ ἡμῖν ὠμολόγησεν ἅπαντα πε-  
ποίηκε, καὶ αὐτὸς τὴν ἐξεγγυήν ὅτι ἀπέδωκεν. εἰ  
οὖν ταῦτ' ἐρεῖ, ψεύσεται καὶ ῥαδίως ἐλεγχθήσεται.  
ἀναγνώσεται γὰρ ὑμῖν ὅσα κατέλιπε Δικαιογένης ὁ  
Μενεξένου ἐν τῷ κλήρῳ καὶ τὰ χρήματα ἃ ἔλαβεν.

### <ΑΠΟΓΡΑΦΗ>

4 Ταῦτα εἰ μὲν μή φασι Δικαιογένην τὸν ἡμέτερον  
θεῖον ζῶντα κεκτῆσθαι καὶ ἀποθνήσκοντα ἡμῖν δοῦ-  
ναι, ἀποδειξάτωσαν· εἰ δὲ καὶ ἐκείνον καταλιπεῖν  
καὶ ἡμᾶς κεκομίσθαι, μαρτυρησάτω τις αὐτοῖς.  
ὅτι μὲν γὰρ Δικαιογένης ὠμολόγει παραδώσειν

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<sup>a</sup> On the meaning of ἀντωμοσία see p. 80 and note.



## ON THE ESTATE OF DICAEOGENES, 1-4

we are bringing an action against Leochares, his surety, in accordance with our affidavit.<sup>a</sup> Please read the affidavit.

### AFFIDAVIT

That the facts which we stated in the affidavit are true, Cephisodotus here is well aware ; and we will now produce witnesses before you to prove, first, that Dicaeogenes (III.) gave up to us the two-thirds of the estate, and, secondly, that Leochares became his surety. Please read the deposition.

### DEPOSITION

You have heard what the witnesses say, and I do not believe that even Leochares himself would declare that their evidence has not been true. He will, however, perhaps have recourse to the argument that Dicaeogenes (III.) has performed all that he agreed to do and that he himself has fulfilled his duties as surety. If he says this, he will be lying and will easily be convicted of doing so ; for the clerk shall read you the inventory of all the property which formed the estate left by Dicaeogenes (II.) the son of Menexenus, and of the property received by Dicaeogenes (III.).

### INVENTORY

If they affirm that Dicaeogenes (II.), our uncle, did not possess this property when he was alive and did not bequeath it to us at his death, let them prove it ; if they declare that he left it and that we have recovered it, let them produce a witness to support their statement. We are producing

ἡμῖν ὧν κατέλιπεν ὁ Μενεξένου τὰ δύο μέρη, ἡμεῖς μάρτυρας παρεχόμεθα,<sup>1</sup> καὶ ὅτι Λεωχάρης ἡγγυῆσατο αὐτὸν ταῦτα ποιήσῃν· καὶ γὰρ δικαζόμεθα διὰ τοῦτο, καὶ ταῦτα ἀντωμόσαμεν. καὶ μοι ἀνάγνωθι τὴν ἀντωμοσίαν.

ΑΝΤΩΜΟΣΙΑ

5 Εἰ μὲν τοίνυν, ὦ ἄνδρες, περὶ τούτων ἔμελλον ἀπολογήσεσθαι<sup>2</sup> μόνον Λεωχάρης ἢ Δικαιογένης, ἥρκει ἂν μοι τὰ εἰρημένα· ἐπειδὴ δὲ παρεσκευασμένοι εἰσὶν ἐξ ἀρχῆς περὶ <τοῦ><sup>3</sup> κλήρου λέγειν, βούλομαι ὑμᾶς καὶ παρ' ἐμοῦ τὰ πραχθέντα πυθέσθαι, ἵνα εἰδότες τάληθῇ, ὅ τι ἂν δοκῇ ὑμῖν, ψηφίσῃσθε, ἀλλὰ μὴ ἐξηπατημένοι.

Μενεξένω γὰρ τῷ ἡμετέρῳ πάππῳ ἐγένετο υἱὸς μὲν εἷς, Δικαιογένης, θυγατέρες δὲ τέτταρες, ὧν ἔλαβε μίαν μὲν Πολυάρατος<sup>4</sup> ὁ πατήρ ὁ ἐμός, ἄλλην δὲ Δημοκλῆς ὁ Φρεάρριος, τὴν δὲ Κηφισοφῶν ὁ Παιανιεύς· ἡ δὲ <τετάρτη><sup>5</sup> Θεοπόμπῳ 6 ἐγῆματο τῷ Κηφισοδότου<sup>6</sup> πατρί. καὶ ὁ μὲν Δικαιογένης, τριήραρχος ἐκπλεύσας τῆς Παράλου, ἐτελεύτησε μαχόμενος ἐν Κνίδω· ἀποθανόντος δ' αὐτοῦ ἄπαιδος διαθήκην ἀπέφηνε Πρόξενος ὁ Δικαιογένους <τουδὶ><sup>7</sup> πατήρ, ἥ πιστεύσαντες οἱ ἡμέτεροι πατέρες ἐνείμαντο τὸν κλῆρον. καὶ ἐπὶ

<sup>1</sup> παρεχόμεθα Baiter-Sauppe: παρεξ-.

<sup>2</sup> ἀπολογήσεσθαι Cobet: -ασθαι.

<sup>3</sup> τοῦ add. Reiske.

<sup>4</sup> Πολυάρατος Reiske: πολυάρτας.

<sup>5</sup> δ' (=τετάρτη) add. Kaibel.

<sup>6</sup> Κηφισοδότου Stephanus: -σιοδότου.

<sup>7</sup> τουδὶ add. Dobree.

witnesses to prove that Dicaeogenes (III.) agreed to hand over to us the two-thirds of the property which the son of Menexenus left, and that Leochares acted as surety for his doing so; for this is the basis of our present action and the subject of our affidavit. Please read me the affidavit.

## AFFIDAVIT

If then, gentlemen, these were the only points with which Leochares or Dicaeogenes (III.) were going to deal in their defence, what I have already said would suffice; but since they are prepared to treat of the question of the inheritance from the beginning, I should like you to hear the facts from my side also, that, knowing the truth instead of being misled, you may give an unbiased verdict.

Our grandfather, Menexenus (I.) had an only son, Dicaeogenes (II.), and four daughters, one of whom was married to my father, Polyaratus, another to Democles of Phrearrhi, the third to Cephisophon of Paeania, while the fourth was the wife of Theopompus, the father of Cephisodotus. Dicaeogenes, having sailed out as commander of the *Paralus*,<sup>a</sup> was killed in action at Cnidus.<sup>b</sup> He died without issue, and Proxenus, the father of Dicaeogenes (III.) here, produced a will, in reliance on which our fathers<sup>c</sup> distributed his estate. Under the will Dicaeogenes

<sup>a</sup> The *Paralus*, which in time of peace was one of the two sacred vessels used for the conveyance of religious missions, ambassadors, etc., was used in war as the flagship of the commander of a squadron.

<sup>b</sup> See Introduction, p. 157.

<sup>c</sup> Menexenus III., the speaker, is pleading on behalf of himself and his cousins Menexenus II. and Cephisodotus, whose fathers had married two of the sisters of Dicaeogenes II.

## ISAEUS

μὲν τῷ τρίτῳ μέρει τοῦ κλήρου Δικαιογένης ὅδε  
 τῷ Μενεξένου Δικαιογένει, ἡμετέρῳ δὲ θείῳ, υἱὸς  
 ἐγένετο ποιητός· τῶν δὲ λοιπῶν ἐκάστη τὸ μέ-  
 [51] ρος | ἐπεδικάσατο τῶν Μενεξένου θυγατέρων· ὧν  
 ἐγὼ τοὺς τότε παρόντας ὑμῖν μάρτυρας παρέξομαι.

### 〈ΜΑΡΤΥΡΕΣ〉

7 Ἐπειδὴ δὲ ἐνείμαντο τὸν κλῆρον, ὁμόσαντες μὴ  
 παραβήσεσθαι τὰ ὠμολογημένα, ἐκέκτητο ἕκαστος  
 δώδεκα ἔτη ἃ ἔλαχε· καὶ ἐν τοσοῦτῳ χρόνῳ οὐσῶν  
 δικῶν οὐδεὶς αὐτῶν ἠξίωσε τὰ πεπραγμένα εἰπεῖν  
 ἀδίκως πεπραῆχθαι, πρὶν δυστυχησάσης τῆς πόλεως  
 καὶ στάσεως γενομένης Δικαιογένης οὕτωσὶ πει-  
 σθεὶς ὑπὸ Μέλανος τοῦ Αἰγυπτίου, ᾧ περ καὶ  
 τᾶλλα ἐπείθετο, ἡμφισβήτει ἡμῖν ἅπαντος τοῦ  
 κλήρου, φάσκων ἐφ' ὅλη<sup>1</sup> ποιηθῆναι υἱὸς ὑπὸ τοῦ  
 8 θείου τοῦ ἡμετέρου. ἡμεῖς μὲν οὖν μαίνεσθαι  
 αὐτὸν ἡγούμεθα τῇ λήξει, οὐκ ἂν ποτε οἰόμενοι  
 τὸν αὐτὸν ἄνδρα τοτὲ<sup>2</sup> μὲν φάσκοντα ἐπὶ τῷ τρίτῳ  
 μέρει ποιηθῆναι τοτὲ δ' ἐφ' ἅπαντι τῷ κλήρῳ  
 δόξαι τάληθές λέγειν ὑμῖν· εἰς δὲ τὸ δικαστήριον  
 εἰσελθόντες καὶ πολλῷ πλείῳ καὶ δικαιότερα  
 λέγοντες ἡδικήθημεν, οὐχ ὑπὸ τῶν δικαστῶν ἀλλ'  
 ὑπὸ Μέλανος τοῦ Αἰγυπτίου καὶ τῶν ἐκείνου  
 φίλων, οἱ διὰ τὰς τῆς πόλεως συμφορὰς ἐξουσίαν  
 σφίσιν αὐτοῖς ἡγοῦντο εἶναι κεκτῆσθαι τε τάλ-  
 λότρια καὶ τὰ ψευδῇ ἀλλήλοις μαρτυρεῖν· ὑπὸ δὲ  
 τῶν τὰ τοιαῦτα ποιούντων ἐξηπατήθησαν οἱ δικα-

<sup>1</sup> ἐφ' ὅλη Aldus: ἐφ' ὅλον.

<sup>2</sup> τοτὲ Aldus: ποτε.

<sup>a</sup> The reference is to the internal troubles at Athens which followed the defeat at Aegospotami in 405 B.C.

## ON THE ESTATE OF DICAEOGENES, 6-8

(III.) here was to be recognized as the adopted son of Dicaeogenes (II.), the son of Menexenus (I.) and our uncle, and heir to a third of his estate ; of the remainder an equal share was adjudicated to each of the daughters of Menexenus (I.). Of these facts I will produce before you as witnesses those who were present on that occasion.

### WITNESSES

When they had thus divided up the inheritance, having sworn not to transgress the terms agreed upon, each remained in possession of the share which he had received for twelve years. During all this period, though the courts sat, no one of them thought of claiming that there was any injustice in what had been done, until, when the city suffered misfortune and strife arose,<sup>a</sup> Dicaeogenes (III.) here, acting at the instigation of Melas the Egyptian, whose advice he followed in everything, claimed from us the whole estate, alleging that he had been adopted as sole heir by our uncle. We thought him mad in bringing the action ; for we could never imagine that the same man could at one time state that he had been adopted as heir to one-third and at another time that he had been adopted as sole heir, and be believed by you to be speaking the truth. However, on coming into court, though we had by far the better case, we were cheated of our rights, not by the judges but by Melas the Egyptian and his friends, who thought that the misfortunes of the city gave them liberty to possess themselves of other people's property and to bear false witness in support of one another, and by their acting in this manner the judges were misled. Thus we,

- 9 σταί. καὶ ἡμεῖς μὲν καταψευδομαρτυρηθέντες ἀπωλέσαμεν τὰ ὄντα· καὶ γὰρ ὁ πατήρ οὐ πολλῷ χρόνῳ ὕστερον μετὰ τὴν δίκην ἐτελεύτησε, πρὶν ἐπεξέλθειν οἷς ἐπεσκήψατο τῶν μαρτύρων· Δικαιογένης δὲ πρὸς ἡμᾶς ὡς ἐβούλετο ἀγωνισάμενος τῇ αὐτῇ ἡμέρᾳ ἐξήλασε μὲν τὴν Κηφισοφῶντος τοῦ Παιανιέως θυγατέρα ἐκ τοῦ μέρους, ἀδελφιδὴν οὖσαν Δικαιογένους τοῦ καταλιπόντος τὰ χρήματα, ἀφείλετο δὲ τὴν Δημοκλέους γενομένην γυναικα, α<sup>1</sup> Δικαιογένης ἀδελφὸς ὢν ἔδωκεν, ἀφείλετο <δὲ><sup>2</sup> καὶ τὴν Κηφισοδότου μητέρα καὶ αὐτὸν τοῦτον
- 10 ἅπαντα. καὶ γὰρ τούτων [τε] ἅμα καὶ ἐπίτροπος καὶ κύριος καὶ ἀντίδικος ἦν, καὶ οὐδὲ κατὰ τὸ ἐλάχιστον μέρος τῆς οἰκειότητος ἐλέου παρ' αὐτοῦ ἔτυχον, ἀλλ' ὀρφανοὶ καὶ ἔρημοι καὶ πένητες γενόμενοι πάντων καὶ τῶν καθ' ἡμέραν ἐπιτηδείων ἦσαν ἐνδεεῖς. οὕτως αὐτοὺς Δικαιογένης οὕτοσι ἐγγυτάτῳ ὢν γένους ἐπετρόπευεν· ὅς γε, αὖ μὲν ὁ πατήρ αὐτοῖς Θεόπομπος κατέλιπε, τοῖς τούτων ἐχθροῖς παρέδωκεν, αὖ δὲ ὁ πρὸς μητρὸς θεῖος καὶ ὁ πάππος αὐτοῖς ἔδωκεν, αὐτὸς ἀφείλετο πρὸ
- 11 δίκης. καὶ ὁ πάντων δεινότατον,<sup>3</sup> τὴν οἰκίαν αὐτῶν τὴν πατρώαν, παίδων ὄντων τούτων, πριάμενος καὶ κατασκάψας [τὸν] κῆπον ἐποιήσατο πρὸς τῇ αὐτοῦ οἰκίᾳ τῇ ἐν ἄστει. καὶ λαμβάνων μίσθωσιν ὀγδοήκοντα μνᾶς ἐκ τῶν Δικαιογένους τοῦ ἡμετέρου θείου χρημάτων, τὸν ἐκείνου ἀδελφιδοῦν Κηφισόδοτον τῷ ἑαυτοῦ ἀδελφῷ Ἀρμοδίῳ συνέπεμψεν εἰς Κόρινθον ἀντ' ἀκολουθίου· εἰς τοῦτο ὕβρεως καὶ μιαρίας ἀφίκετο. καὶ πρὸς τοῖς ἄλλοις

<sup>1</sup> α̂ Reiske: ἦ.

<sup>2</sup> δὲ add. Reiske.

<sup>3</sup> ὁ π. δεινότατον Reiske: ὁ π. δεινότατος.

the victims of perjury, lost our property ; for our father died not long after the case was tried and before he could prosecute those of the witnesses whom he had indicted. Dicaeogenes (III.), on obtaining against us the verdict which he desired, that very same day forcibly deprived of her share the daughter of Cephisophon of Paeania, the niece of Dicaeogenes (II.) who left the money ; robbed the former wife of Democles of what Dicaeogenes (II.) had left her ; and robbed the mother of Cephisodotus and Cephisodotus himself of all they possessed. For of these persons he was at the same time the guardian and legal representative and the legal adversary ; yet they did not meet with the slightest degree of pity from him on account of their relationship, but, orphans and unprotected and penniless, they even lacked all the necessities of life. This is how Dicaeogenes here, their nearest kinsman, carried out his duties as their guardian ; what their father Theopompus left them he handed over to their enemies, and what their maternal uncle and their grandfather gave them he himself appropriated before any judgement had been given. What was worst of all, while they were minors, he bought the house which they had inherited from their father and demolished it and used the site to make a garden adjoining his town-house. Also, though he was receiving an income of seventy minae from the property of our uncle Dicaeogenes (II.), he sent the latter's nephew Cephisodotus with his own brother Harmodius to Corinth<sup>a</sup> as a body servant ; such was his insolence and rascality. Nay, he added

<sup>a</sup> *i.e.*, during the Corinthian war of 394-386 B.C.



κακοῖς ὀνειδίζει καὶ ἐγκαλεῖ αὐτῷ ὅτι ἐμβάδας καὶ τρίβωνα<sup>1</sup> φορεῖ, ὥσπερ ἀδικούμενός τι εἰ ἐμβάδας Κηφισόδοτος φορεῖ, ἀλλ' οὐκ ἀδικῶν ὅτι ἀφελόμενος αὐτὸν τὰ ὄντα πένητα πεποίηκεν.

12 Ἀλλὰ περὶ μὲν<sup>2</sup> τούτων τοσαῦτά μοι εἰρήσθω· πάλιν δ' ἐπάνειμι ὅθεν ἀπέλιπον. Μενέξενος γὰρ ὁ Κηφισοφῶντος υἱός, ἀνεψιὸς ὢν Κηφισοδότῳ τουτῷ<sup>3</sup> καὶ ἐμοί, καὶ προσῆκον αὐτῷ τοῦ κλήρου μέρος ὅσον περ ἐμοί, ἐπεξήει τοῖς καταμαρτυρήσασιν ἡμῶν καὶ ἐκείνου τὰ ψευδῆ, καὶ Λύκωνα, ὃν περ εἰσήγαγε πρῶτον εἰς τὸ δικαστήριον, τοῦτον εἶλεν· ὃς ἐμαρτύρησε Δικαιογένην ποιηθῆναι τὸν νῦν ὄντα ὑπὸ τοῦ θείου τοῦ ἡμετέρου

13 υἱὸν ἐπὶ παντὶ τῷ κλήρῳ. μαρτυρήσας δὲ ταῦτα ἑάλω ψευδομαρτυρίων. ἐπειδὴ δὲ Δικαιογένης, ὧ ἄνδρες, οὐκέτι ὑμᾶς<sup>4</sup> δύναται ἐξαπατᾶν, πείθει Μενέξενον τὸν ὑπὲρ ἡμῶν τε καὶ ὑπὲρ αὐτοῦ πράττοντα, ἃ ἐγὼ αἰσχννόμενος ἀναγκάζομαι διὰ τὴν ἐκείνου πονηρίαν λέγειν, — τί ποιῆσαι; κομισάμενον αὐτὸν μέρος ἐκ τοῦ κλήρου ὃ τι ἐγίγνετο, ἡμᾶς μὲν ὑπὲρ ὧν ἔπραττε προδοῦναι, τοὺς δὲ μήπω ἑαλωκότας τῶν μαρτύρων ἀφεῖναι. καὶ [52] ἡμεῖς μὲν ταῦτα | ὑπὸ τῶν φίλων καὶ τῶν ἐχθρῶν παθόντες εἵχομεν ἡσυχίαν. τούτων δ' ὑμῖν μάρτυρας παρέξομαι.

ΜΑΡΤΥΡΕΣ

14 Ὁ μὲν τοίνυν Μενέξενος παθὼν ἄξια τῶν ἑαυτοῦ τρόπων ἡπατήθη ὑπὸ τοῦ Δικαιογένους· ἀφείς

<sup>1</sup> τρίβωνα Cobet: τριβώνια.

<sup>2</sup> περὶ μὲν Dobree: μὲν περὶ.

<sup>3</sup> τουτῷ Scheibe: τούτῳ.

<sup>4</sup> ὑμᾶς Reiske: ἡμᾶς.



insult to injury by reviling and upbraiding him for wearing heavy shoes and a coarse cloak, as though it was Cephisodotus who was wronging him by wearing such shoes, and not he who was wronging Cephisodotus by having reduced him to poverty by robbing him of his property.

So much must suffice on these topics ; I will now return to the point from which I digressed.<sup>a</sup> Menexenus (II.), the son of Cephisophon and cousin to Cephisodotus here, and to me, who had a right to the same share of the estate as I had, proceeded to prosecute those who had borne false witness against us and him, and obtained a conviction against Lycon, the first man whom he brought into court. His evidence had been that Dicaeogenes (III.) had been adopted as sole heir by our uncle ; he was convicted of perjury for giving evidence to this effect. When Dicaeogenes (III.), gentlemen, found that he could no longer deceive you, he advised Menexenus (II.), who was acting for us as well as for himself (I am ashamed to be obliged by his rascality to mention it), to do—what do you think ?—himself to take the share of the estate which was due to him and to throw over us, on whose behalf he was acting, and let off those of the witnesses who had not yet been convicted ! And we, thus treated by our friends and our enemies, kept quiet. On these points I will now produce witnesses before you.

#### WITNESSES

Menexenus (II.) was paid out as he deserved for his evil conduct, being deceived by Dicaeogenes

<sup>a</sup> The end of § 9.

γὰρ τοὺς μάρτυρας καὶ ἡμᾶς προδοὺς, ὧν ἕνεκα ταῦτ' ἔπραξεν οὐκ ἔκομίσατο. ἀδικηθεῖς δὲ ὑπὸ Δικαιογένους μεθ' ἡμῶν πάλιν ἔπραττεν. ἡμεῖς δὲ καθηγούμενοι οὐκέτι προσήκειν Δικαιογένει ἔχειν τῶν ἐκ τοῦ κλήρου μέρος οὐδέν, ἐπειδὴ οἱ μάρτυρες ἐάλωσαν, ἀμφισβητοῦμεν αὐτῷ ἅπαντος τοῦ οἴκου κατ' ἀγχιστείαν. καὶ ὅτι ἡμεῖς τε ὀρθῶς ἐγνώκαμεν καὶ οὐδέν ἔτι προσήκει Δικαιο-  
 15 γένει τοῦ κλήρου, ῥαδίως διδάξω. δύο γὰρ δια-  
 θῆκαι <ἀπ>εφάνησαν,<sup>1</sup> ἡ μὲν πάλαι, ἡ δὲ πολλῶ<sup>2</sup>  
 ὕστερον· καὶ κατὰ μὲν τὴν παλαιάν, ἣν ἀπέφηνε  
 Πρόξενος ὁ Δικαιογένους τουτουί<sup>3</sup> πατήρ, ἐπὶ τῷ  
 τρίτῳ μέρει τοῦ κλήρου ἐγένετο τῷ θείῳ τῷ  
 ἡμετέρῳ υἱὸς ποιητός, καθ' ἣν δ' αὐτὸς ἀπέφηνε  
 Δικαιογένης, ἐπὶ<sup>4</sup> παντὶ τῷ οἴκῳ. τούτοις δὲ  
 τοῖν<sup>5</sup> διαθήκαι ἣν μὲν Πρόξενος ἀπέφηνε, Δικαιο-  
 γένης ἔπεισε τοὺς δικαστὰς ὥς οὐκ ἀληθὴς εἶη·  
 ἣν δὲ Δικαιογένης ἀπέφηνεν, οἱ μαρτυρήσαντες  
 αὐτὴν τὸν θεῖον τὸν ἡμέτερον διαθέσθαι ἐάλω-  
 16 σαν ψευδομαρτυρίων. ἀμφοῖν δὲ τοῖν<sup>6</sup> διαθήκαι  
 ἀκύροιν γιγνομέναις, καὶ ἐτέρας μηδεμιᾶς ὁμο-  
 λογουμένης εἶναι, κατὰ δόσιν μὲν οὐδενὶ προσήκε  
 τοῦ κλήρου, κατ' ἀγχιστείαν δὲ ταῖς Δικαιογένους  
 τοῦ ἀποθανόντος ἀδελφαῖς, ὧν εἰσιν αἱ ἡμέ-  
 τεραι μητέρες. διὰ δὲ ταῦτα ἔδοξέ τε ἡμῖν λαχεῖν  
 τοῦ κλήρου κατ' ἀγχιστείαν, καὶ ἐλάχομεν τοῦ  
 μέρους<sup>7</sup> ἕκαστος. μελλόντων δ' ἡμῶν ἀντόμνυσθαι  
 διεμαρτύρησε Λεωχάρης οὕτοσί μὴ ἐπίδικον εἶναι

<sup>1</sup> <ἀπ>εφάνησαν Dobree.    <sup>2</sup> ἡ δὲ πολλῶ Reiske: πολλῶ ἡ δὲ.

<sup>3</sup> τουτουί Scheibe: τούτου.

<sup>4</sup> ἐπὶ Bekker: ἐν.

<sup>5</sup> τούτοις δὲ τοῖς Naber: ταύταις δὲ ταῖς.

<sup>6</sup> τοῖς Naber: ταῖς.

<sup>7</sup> τοῦ μέρους Buermann: τὸ μέρος.

(III.); he let off the accused witnesses and threw us over, but he received no reward for his services. Having been thus wronged by Dicaeogenes (III.), he made common cause with us again; and we, judging that Dicaeogenes (III.) had no longer any right to any part of the property forming the estate, since the witnesses had been convicted, claimed from him the whole estate on the ground of affinity. That our decision to act thus has been a right one and that Dicaeogenes (III.) has no longer any right to a share in the estate, I shall easily prove to you. Two wills were produced, one made long ago, the other much more recent. Under the old will, which Proxenus, the father of Dicaeogenes (III.) here, produced, the latter was to be heir by adoption to one-third of our uncle's estate; according to the will which Dicaeogenes (III.) himself produced, he was to be heir to the whole estate. Of these two wills Dicaeogenes (III.) persuaded the judges that the one, namely that produced by Proxenus, was not genuine; those who bore witness that the other, namely that which Dicaeogenes (III.) produced, was our uncle's genuine will, were convicted of perjury. Both wills being thus invalidated and it being admitted that no other will existed, no one had any claim to the estate under testamentary disposition, but it could be claimed on grounds of affinity by the sisters of the deceased Dicaeogenes (II.), among whom were our mothers.<sup>a</sup> We therefore resolved to claim the estate on grounds of affinity, and we each claimed our share. When we were on the point of making our affidavit,<sup>b</sup> Leochares

<sup>a</sup> The mothers of Cephisodotus, Menexenus II., and Menexenus III.

<sup>b</sup> For ἀντωμοσία see note on iii. 6.

## ISAEUS

- 17 τὸν κλῆρον ἡμῖν. ἐπισκηψαμένων<sup>1</sup> δ' ἡμῶν ἡ μὲν λήξις τοῦ κλήρου διεγράφη, ἡ δὲ τῶν ψευδομαρτυρίων δίκη εἰσῆι. ἐν δὲ τῷ δικαστηρίῳ πάντα μὲν ἡμῶν εἰπόντων ἅ περ νυνί, πολλὰ δὲ Λεωχάρους ἀνταπολογησαμένου, ἔγνωσαν τὰ ψευδῇ μαρτυρῆσαι Λεωχάρην οἱ δικασταί. ἐπειδὴ δὲ τοῦτο φανερόν ἐγένετο ἐξαιρεθεισῶν τῶν ψήφων, ἅ μὲν τῶν δικαστῶν καὶ ἡμῶν ἐδεήθη Λεωχάρης ἢ ὅσα ἡμῖν ἐξεγένετο διαπράξασθαι τότε, οὐκ οἶδ' ὅ τι δεῖ λέγειν, ἅ δὲ ὡμολογήθη ἡμῖν, ταῦτα
- 18 ἀκούσατε. συγχωρούντων γὰρ ἡμῶν τῷ ἄρχοντι μὴ συναριθμεῖν ἀλλὰ συγχέαι τὰς ψήφους, ἀφίστατο μὲν Δικαιογένης τοῖν δυοῖν μεροῖν τοῦ κλήρου ταῖς Δικαιογένους ἀδελφαῖς, καὶ ὡμολόγει ἀναμφισβήτητα<sup>2</sup> παραδώσειν ἡμῖν ταῦτα τὰ μέρη· καὶ ταῦτα ἡγγυᾶτο αὐτὸν Λεωχάρης οὔτοσί<sup>3</sup> ἅ<sup>4</sup> ὡμολόγει ποιήσειν, οὐ μόνος ἀλλὰ καὶ Μνησιπτόλεμος ὁ Πλωθειεύς.<sup>5</sup> καὶ τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

## ΜΑΡΤΥΡΕΣ

- 19 Ἡμεῖς τοίνυν ταῦτα παθόντες ὑπὸ Λεωχάρους, καὶ ἐγγενόμενον ἡμῖν αὐτὸν ἐπειδὴ εἵλομεν τῶν ψευδομαρτυρίων ἀτιμῶσαι, οὐκ ἐβουλήθημεν, ἀλλ' ἐξήρκεσε τὰ ἡμέτερα ἡμῖν κομισαμένοις ἀπ-

<sup>1</sup> ἐπισκηψαμένων Aldus: ἐπισκεψ-.

<sup>2</sup> ἀναμφισβήτητα Aldus: ἀναμφίβητα.

<sup>3</sup> οὔτοσί Scheibe: οὗτος.

<sup>4</sup> ἅ scripsi, cf. § 20. 9, § 22. 3: καὶ.

<sup>5</sup> Πλωθειεύς Meursius: πλωτιεύς.

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<sup>a</sup> Leochares in his protestation put in evidence that Dicaeogenes III. had been adopted under his uncle's will

here put in a protestation that the estate was not adjudicable to us.<sup>a</sup> We then indicted Leochares, with the result that the suit claiming the estate was struck off the list, and the action for perjury came on. In court, after we had brought forward all the arguments which we are presenting on the present occasion, and Leochares had made a lengthy defence, the judges decided that Leochares had committed perjury. When this result became evident after the votes had been taken out of the urns, I do not think I need dwell upon the appeals which Leochares made to the judges and to us or the penalties which we were entitled to exact on that occasion; but I will tell you the compromise to which we came. On our agreeing with the archon not to count the votes but to mix them together, Dicaeogenes (III.) gave up two-thirds of the estate in favour of the sisters of Dicaeogenes (II.) and agreed to hand over these shares without further discussion, and Leochares here undertook to be surety that he would carry out his promise. He was not the only surety, for Mnesiptolemus of Plotheia gave a similar undertaking. Of these facts I will now produce witnesses before you.

## WITNESSES

Having been thus treated by Leochares, though it was possible for us to have him deprived of civil rights since we had obtained a verdict for perjury against him, we did not wish to do so, but were satisfied to recover what belonged to us and be quit and that therefore an adjudication by the court was unnecessary. The contention of his opponents was that the will was a forgery; they therefore applied to the court to have the intestate estate adjudicated to them as next-of-kin.

ηλλάχθαι. τοιοῦτοι δὲ γενόμενοι περὶ Λεωχάρην  
καὶ Δικαιογένην ἐξηπατήθημεν ὑπ' αὐτῶν, ὧ  
ἄνδρες· οὔτε γὰρ Δικαιογένης τὰ δύο μέρη ἡμῖν  
τοῦ κλήρου παρέδωκεν, ὁμολογήσας ἐπὶ τοῦ δικα-  
στηρίου, οὔτε Λεωχάρης ὁμολογεῖ ἐγγυήσασθαι  
20 αὐτὸν τότε. καίτοι εἰ μὴ ἐναντίον μὲν τῶν δικα-  
στῶν, πεντακοσίων ὄντων, ἐναντίον δὲ τῶν περι-  
εστηκότων ἡγγυᾶτο, οὐκ οἶδ' ὅ τι ἂν ἐποίησεν.  
ὥς μὲν τοίνυν περιφανῶς ψεύδονται, μάρτυρας  
ὑμῖν παρεχόμεθα τοὺς παρόντας, ὅτε Δικαιογένης  
μὲν ἀφίστατο τοῖν δυοῖν μεροῖν τοῦ κλήρου καὶ  
ὡμολόγει ἀναμφισβήτητα παραδώσειν ταῖς Δικαιο-  
γένους ἀδελφαῖς, Λεωχάρης δὲ ἡγγυᾶτο αὐτὸν ἃ  
ὡμολόγησε καὶ ποιήσιν. δεόμεθα δὲ καὶ ὑμῶν,  
ὧ ἄνδρες, εἴ τις ἐτύγχανε παρὼν τότε, ἀναμνησθῆ-  
21 ναι εἰ λέγομεν ἀληθῆ καὶ βοηθηῆσαι ἡμῖν· ἐπεὶ, ὧ  
ἄνδρες, εἰ Δικαιογένης ἀληθῆ λέγει, τί ἡμεῖς ὠφε-  
λούμεθα νικήσαντες, ἢ τί οὗτος ἐζημιώθη ἡττηθείς;  
εἰ γὰρ ἀπέστη μόνον (ὥς φησι) τοῖν δυοῖν μεροῖν  
[53] τοῦ κλήρου, ἀναμφισβήτητα<sup>1</sup> δὲ μὴ | ὡμολόγει  
παραδώσειν, τί ἐζημιούτο ἀφιστάμενος ὦν τιμὴν  
εἶχεν; οὐδὲ γὰρ πρὶν ἡττηθῆναι τὴν δίκην εἶχεν  
ὦν ἡμεῖς δικαζόμεθα, ἀλλ' οἱ παρὰ τούτου πριά-  
μενοι καὶ θέμενοι, οἷς ἔδει αὐτὸν ἀποδόντα τὴν  
22 τιμὴν ἡμῖν τὰ μέρη ἀποδοῦναι. διὰ ταῦτα γὰρ  
καὶ τοὺς ἐγγυητὰς παρ' αὐτοῦ ἐλάβομεν, οὐ  
πιστεύοντες αὐτῷ ἃ ὡμολόγησε ποιήσιν. πλὴν

<sup>1</sup> ἀναμφισβήτητα Schoemann: -ον.

<sup>a</sup> i.e., his becoming surety for the restoration of the property was the only way in which he could hope to escape punishment for his perjury.

of him. Having behaved thus towards Leochares and Dicaeogenes (III.) we were deceived by them, gentlemen; for Dicaeogenes (III.) did not hand over the two-thirds of the estate, though he had agreed in court to do so, and Leochares refuses to admit that he undertook to be surety on that occasion. Yet if he had not given surety in the presence of the judges, five hundred in number, and of those who were present in court, I don't know what he could have done.<sup>a</sup> To prove, therefore, that they are obviously lying, we are producing as witnesses those who were present when Dicaeogenes (III.) gave up two-thirds of the estate and promised to hand it over without further dispute to Dicaeogenes' (II.) sisters, and Leochares undertook to be surety that he would actually perform what he promised. And we beseech you, gentlemen, if any of you were present on that occasion, to recollect whether we are speaking the truth and to aid us. For, gentlemen, if Dicaeogenes (III.) is speaking the truth, what advantage was it to us to have won our case, and what disadvantage was it to my opponent to be defeated? For if he simply renounced, as he alleges, his claim to the two-thirds of the estate but did not agree to hand it over without further dispute, what did he lose by renouncing property, the value of which he was still holding? For even before he lost his case, the property which we are claiming was not in his possession but in the hands of those who bought it from him or held it on mortgage, whom he ought to have paid off and then given us our share. That is why we insisted on his providing sureties, because we had no confidence that he would carry out his agreement. Indeed except two small buildings outside



γὰρ δυοῖν οἰκιδίῳν ἔξω τείχους καὶ ἐν Πεδίῳ  
 ἐξήκοντα πλέθρων οὐδὲν κεκομίσμεθα, ἀλλ' οἱ  
 παρὰ τούτου θέμενοι καὶ πριάμενοι. ἡμεῖς δ' οὐκ  
 ἐξάγομεν· δέδιμεν<sup>1</sup> γὰρ μὴ ὄφλωμεν δίκας. καὶ  
 γὰρ Μικίωνα,<sup>2</sup> κελεύοντος Δικαιογένους καὶ φά-  
 σκοντος <οὐ><sup>3</sup> βεβαιώσῃν, ἐξάγοντες<sup>4</sup> ἐκ τοῦ βαλα-  
 νεῖου ὥφλωμεν τετταράκοντα μνᾶς διὰ Δικαιο-  
 23 γένην, ὧ ἄνδρες. ἡγούμενοι γὰρ οὐκ ἂν αὐτὸν βε-  
 βαιώσαι<sup>5</sup> οὐδὲν<sup>6</sup> ὦν ἡμῖν ἀπέστη ἐν τῷ δικαστηρίῳ,  
 δισχυρίζομεθα πρὸς Μικίωνα ἐναντίον τῶν δικα-  
 στῶν, ἐθέλοντες ὅτιοῦν πάσχειν, εἰ βεβαιώσῃεν  
 αὐτῷ Δικαιογένης τὸ βαλανεῖον, οὐκ ἂν ποτε  
 οἴομενοι αὐτὸν ἐναντία οἷς ὠμολόγησε πράξαι, οὐ  
 δι'<sup>7</sup> ἄλλ' οὐδὲν ἢ διὰ τοὺς ἐγγυητάς, ὅτι καθ-  
 24 εἰστήκεσαν ἡμῖν. ἀποστὰς δὲ Δικαιογένης ταῦτα  
 τὰ μέρη ὧν καὶ νῦν ὁμολογεῖ ἀφεστάναι ἡμῖν,  
 ἐβεβαίωσε Μικίῳνι τὸ βαλανεῖον. καὶ ἐγὼ μὲν ὁ  
 ἄθλιος οὐχ ὅπως τι ἐκ τοῦ κλήρου εἰληφώς, ἀλλὰ  
 προσαπολωλεκὼς τετταράκοντα μνᾶς, ἀπῆειν ὑβρι-  
 σμένος ὑπὸ τοῦ Δικαιογένους. καὶ τούτων ὑμῖν  
 μάρτυρας παρέξομαι.

## ΜΑΡΤΥΡΕΣ

25 Ταῦτα μὲν πεπόνθαμεν ὑπὸ Δικαιογένους, ὧ ἄν-  
 δρες· ὁ δ' ἐγγυησάμενος αὐτὸν Λεωχάρης καὶ τῶν

<sup>1</sup> δέδιμεν Cobet: δεδίαμεν.

<sup>2</sup> Μικίωνα Reiske: μηκίωνα.

<sup>3</sup> οὐ add. Wyse.

<sup>4</sup> ἐξάγοντες Aldus: -os.

<sup>5</sup> βεβαιώσαι Naber: -ώσῃν.

<sup>6</sup> οὐδὲν Aldus: οὐδέ.

<sup>7</sup> οὐ δι' Aldus: οὐδ'.

<sup>a</sup> About 13 acres.

<sup>b</sup> The upper valley of the river Cephissus.



the walls and sixty *plethra*<sup>a</sup> of land in the Plain<sup>b</sup> we have recovered nothing: the rest is in the possession of those to whom he sold or mortgaged it. *We* are making no attempt to eject them, because we are afraid of losing suits against them; for when we tried to eject Micion from the bath-house at the suggestion of Dicaeogenes (III.), who said that he would not confirm his title,<sup>c</sup> we were fined forty minae, all through Dicaeogenes, gentlemen. For thinking that he would not confirm any title to any of the property to which he renounced his claim in our favour in the court, we vigorously attacked Micion before the judges, being willing to run any risk of Dicaeogenes (III.) confirming Micion's title to the bath-house, and never imagining that he would do the very opposite of what he had agreed to do, our sole reason for so acting being that the sureties had been given. Dicaeogenes (III.), however, having renounced the portion of the property which he still admits that he renounced in our favour, confirmed Micion's title to the bath-house. Thus I was in the unfortunate position of not only having received nothing from the estate but of having also lost forty minae, and left the court having been fooled by Dicaeogenes (III.). Of these things I will now produce witnesses before you.

## WITNESSES

Such is the treatment, gentlemen, which we have received from Dicaeogenes (III.). Leochares, who became his surety and is the cause of all our troubles,

<sup>a</sup> Under Athenian law the vendor undertook to guarantee the title of any property which he sold and assumed an obligation if any attempt was made to evict the purchaser.

πάντων ἡμῖν κακῶν αἴτιος οὗ φησιν ἐγγυήσασθαι  
 ἃ καταμαρτυρεῖται αὐτοῦ, ὅτι ἐν τῷ γραμματείῳ  
 τῷ ἐπὶ τοῦ δικαστηρίου γραφέντι οὐκ ἔνεστι ταῦτα.  
 ἡμεῖς δέ, ὦ ἄνδρες, τότε ἐπὶ τοῦ βήματος σπεύδον-  
 τες τὰ μὲν ἐγράψαμεν, τῶν δὲ μάρτυρας ἐποιησά-  
 μεθα· οὗτοι δέ, ἃ μὲν αὐτοῖς συμφέρει τῶν ὀπο-  
 λογηθέντων τότε, κύρια φασιν εἶναι, εἰ καὶ μὴ  
 γέγραπται, ἃ δ' οὐ συμφέρει, οὐ κύρια, εἰ μὴ γέ-  
 26 γραπται. ἐγὼ δ', ὦ ἄνδρες, οὐ θαυμάζω ὅτι ἔξ-  
 αρνοί εἰσι τὰ ὠμολογημένα· οὐδὲ γὰρ τὰ γραφέντα  
 ἐθέλουσι ποιεῖν. ἡμεῖς δ' ὥς λέγομεν<sup>1</sup> ἀληθῆ, καὶ  
 ἄλλο τι τεκμήριον παρεξόμεθα. Πρωταρχίδῃ γὰρ  
 τῷ Ποταμίῳ ἔδωκε Δικαιογένῃς τὴν ἀδελφὴν τὴν  
 ἑαυτοῦ ἐπὶ τετταράκοντα μναῖς, ἀντὶ δὲ τῆς  
 προικὸς τὴν οἰκίαν αὐτῷ τὴν ἐν Κεραμεικῷ παρ-  
 ἔδωκε. ταύτῃ δὲ τῇ γυναικί, ἣν ὁ Πρωταρχίδης  
 ἔχει, προσήκει τοῦ κλήρου μέρος ὅσον περ τῇ  
 27 μητρὶ τῇ ἐμῇ. ἐπεὶ δ' οὖν ἀπέστη Δικαιογένῃς  
 ταῖς γυναιξὶ τοῖν δυοῖν μεροῖν τοῦ κλήρου, ἡξίου  
 ὁ Λεωχάρης τὸν Πρωταρχίδην παραδιδόναι αὐτῷ  
 τὴν συνοικίαν ἣν εἶχεν ἀντὶ τῆς προικὸς, ὥς ὄντι  
 ἐγγυητῇ αὐτῷ,<sup>2</sup> τὸ δὲ μέρος ὑπὲρ τῆς γυναικὸς  
 τοῦ κλήρου παρ αὐτοῦ<sup>3</sup> κομίζεσθαι. παραλαβὼν  
 δὲ τὴν συνοικίαν τὸ μέρος οὐ παρέδωκε. καὶ

<sup>1</sup> λέγομεν Reiske: ἐλέγομεν.

<sup>2</sup> αὐτῷ Baiter-Sauppe: αὐτῷ.

<sup>3</sup> αὐτοῦ Baiter-Sauppe: αὐτοῦ.

<sup>a</sup> If the ms. reading is retained, the reference must be to the giving in marriage of one of his sisters by Dicaeogenes II., since a sister of Dicaeogenes III. would have no claim to a share in the estate. The sister in question must, therefore, be the widow or divorced wife of Democles (§§ 5 and 9 τὴν Δημοκλέους γενομένην γυναῖκα).

says that he never undertook to act as surety to the extent stated in the evidence against him, on the ground that it is not implied in the document drawn up before the tribunal. We, gentlemen, being hurried at the time in court, wrote down some of the points and obtained witnesses in support of others; but our opponents affirm the validity of those parts of the agreement then made which are to their own advantage, even if they are not in writing, while they deny the validity of what is contrary to their interests unless it exists in writing. For myself, gentlemen, I am not surprised that they repudiate their verbal agreements, for they are unwilling to execute the written conditions. We will furnish another proof of our veracity. Dicaeogenes (II.) gave his sister <sup>a</sup> in marriage to Protarchides of Potamos with a dowry of forty minae, but instead of paying the dowry to her in cash he made over to Protarchides the house which he possessed in the Cerameicus. Now this woman, the wife of Protarchides, has a right to just the same share of the estate as my mother. Now when Dicaeogenes (III.) renounced the two-thirds of the estate in favour of the women, Leochares suggested that Protarchides should hand over to him the building which he possessed in lieu of the dowry, on the ground that he was surety, and receive from him on his wife's behalf the share of the estate which accrued to her.<sup>b</sup> He took over the building, but never paid over the share of the estate. And of

<sup>b</sup> If the interpretation suggested in the last note is correct, the meaning here can only be that the dowry of the sister of Dicaeogenes II., having originally come from him, had to return into hotchpotch before his estate could be re-divided.

τούτων ὑμῖν μάρτυρα τὸν Πρωταρχίδην παρέξομαι.

ΜΑΡΤΥΣ<sup>1</sup>

- 28 Περὶ δὲ ἐπισκευῆς τοῦ βαλανείου καὶ οἰκοδομίας καὶ πρότερον εἶρηκε Δικαιογένης καὶ νῦν ἴσως ἐρεῖ, ὡς ὁμολογήσαντες αὐτῷ ἀποδώσειν τὰ ἀνηλωμένα οὐκ ἀπεδώκαμεν, καὶ ὅτι διὰ τοῦτο οὐ δύναται ἀπαλλάσσειν τοὺς χρήστας, οὐδὲ ἡμῖν παραδοῦναι
- 29 ἃ δεῖ αὐτόν. ἡμεῖς δέ, ὦ ἄνδρες, ἐπὶ τοῦ δικαστηρίου, ὅτε ἠναγκάζομεν αὐτὸν ἀφίστασθαι τούτων, ἀντὶ τῶν λητουργιῶν καὶ τῶν εἰς τὰ οἰκοδομήματα ἀνηλωμένων<sup>2</sup> ἀφεῖμεν αὐτῷ τοὺς καρπούς, οὕτω τῶν δικαστῶν γιγνωσκόντων· ὕστερον δ' οὐκ ἀναγκαζόμενοι ἀλλ' ἐκόντες ἔδομεν αὐτῷ τὴν ἐν ἅστει οἰκίαν ἐξαίρετον προσθέντες<sup>3</sup> τῷ τρίτῳ μέρει τοῦ κλήρου ἔχειν ἀντὶ τῶν ἐπεσκευασμένων, ἣν οὗτος<sup>4</sup> ἀντὶ πεντακισχιλίων δραχμῶν παρέδωκε
- 30 Φιλονείκῳ. ἔδομεν<sup>5</sup> δὲ οὐ διὰ τὴν τοῦ Δικαιογένους χρηστότητα, ὦ ἄνδρες, ἀλλ' ἐπιδεικνύμενοι ὅτι οὐ περὶ πλείονος χρήματα ποιούμεθα τῶν οἰκείων, οὐδ' ἂν πάνυ πονηροὶ ὦσι. καὶ γὰρ πρότερον ὅτ' ἐφ' ἡμῖν ἐγένετο Δικαιογένην τιμωρήσασθαι καὶ ἀφελέσθαι ἃ εἶχεν, οὐκ ἐβουλήθη-
- [54] μεν τῶν τούτου | κτήσασθαι οὐδέν, ἀλλὰ τὰ ἡμέτερα μόνον κομίσασθαι ἐξήρκει ἡμῖν. οὗτος δ' ὅτ' ἐκράτησεν ἡμῶν, ἀπεσύλησεν ἃ ἐδύνατο, καὶ ὡς ἐχθροὺς

<sup>1</sup> μάρτυς Aldus : μάρτυρες.

<sup>2</sup> ἀνηλωμένων Herwerden : ἀναλ-.

<sup>3</sup> ἐξαίρε<τον προσ>θέντες Buermann : ἐξαιρεθέντες πρὸς.

<sup>4</sup> οὗτος M, Aldus : οὗτως.

<sup>5</sup> ἔδομεν Reiske : παρέδ-.

<sup>a</sup> Apparently during the period when Dicaeogenes III. held the whole estate, his fortune was such that he was obliged

## ON THE ESTATE OF DICAEOGENES, 27-30

these facts I will now produce Protarchides as witness.

### WITNESS

Regarding the repairs to the bath-house and the cost of building, Dicaeogenes (III.) has declared on a former occasion, and will now perhaps again declare, that we agreed to re-imburse him his expenses but failed to do so, and that he therefore cannot get rid of the creditors and restore what he ought to us. Now, gentlemen, we in court, when we obliged him to renounce this property, let him off the payment of the revenue he had received from it in consideration of the public services which he had performed <sup>a</sup> and the expenses which he had incurred on the buildings, in accordance with the decision of the judges; and subsequently, under no compulsion but of our own free will, in consideration of the repairs which he had carried out, gave him as a special gift, in addition to his third share of the estate, the town-house which he sold to Philonicus for 5000 drachmae. We made Dicaeogenes (III.) this present not because of his honesty, but as a proof that we have more regard for our relatives, even though they may be thorough rascals, than for money. For, indeed, on an earlier occasion, when it was in our power to punish Dicaeogenes (III.) and deprive him of his property, we did not wish to possess ourselves of anything which belonged to him but were satisfied with merely obtaining what was our own. He, on the other hand, when he had us in his power, robbed us of all he could and tried to ruin us, as though we were his foes and not his to undertake public burdens to which he otherwise would not have been liable.

- 31 ἀλλ' οὐ προσήκοντας ἀπόλλυσι. τεκμήριον δὲ καὶ τῶν ἡμετέρων τρόπων καὶ τῆς τούτου ἀδικίας μέγα παρεξόμεθα. μελλούσης γὰρ τῆς πρὸς Λεωχάρην δίκης εἰσιέναι, ὦ ἄνδρες, ἐν τῷ Μαιμακτηριῶνι<sup>1</sup> μηνί, ἡξίου Λεωχάρης καὶ Δικαιογένης δίαιταν ἡμᾶς ἐπιτρέπειν<sup>2</sup> τὴν δίκην ἀναβαλλομένους. καὶ ἡμεῖς ὥσπερ μικρὰ ἀδικούμενοι συνεχωρήσαμεν, καὶ ἐπετρέψαμεν διαιτηταῖς τέτταρσιν, ὧν τοὺς μὲν δύο ἡμεῖς ἡγάγομεν, τοὺς δὲ δύο ἐκείνοι. καὶ ἐναντίον τούτων ὡμολογήσαμεν ἔμμενείν<sup>3</sup> οἷς ἂν
- 32 οὗτοι γνοίεν, καὶ ὁμόσαμεν. καὶ οἱ διαιτηταὶ ἔφασαν, εἰ μὲν ἀνώμοτοι δύναιτ' [ἂν] ἡμᾶς διαλλάξαι, οὕτω ποιήσῃ, εἰ δὲ μή, καὶ αὐτοὶ ὁμόσαντες ἀποφανεῖσθαι ἃ δίκαια ἡγούνται εἶναι. ἀνακρίναντες δὲ ἡμᾶς πολλάκις καὶ πυθόμενοι τὰ πραχθέντα οἱ διαιτηταί, οἱ μὲν δύο οὕς ἐγὼ προὔβαλόμην,<sup>4</sup> Διότιμος καὶ Μελάνωπος,<sup>5</sup> ἤθελον καὶ ἀνώμοτοι καὶ ὁμόσαντες ἀποφήνασθαι ἃ ἐγίγνωσκον ἀληθέστατα ἐκ τῶν λεγομένων, οὕς δὲ Λεωχάρης προὔ-
- 33 βάλετο, οὐκ ἔφασαν ἀποφανεῖσθαι. καίτοι Διοπίθης ὁ ἕτερος τῶν διαιτητῶν Λεωχάρει μὲν ἦν τουτωῖ<sup>6</sup> κηδεστής, ἐμὸς δ' ἐχθρὸς καὶ ἀντίδικος ἐξ ἐτέρων συμβολαίων. Δημάρατος δὲ ὁ μετ' αὐτοῦ Μνησιπτολέμῳ τῷ ἐγγυησαμένῳ Δικαιογένην<sup>7</sup> μετὰ Λεωχάρους ἦν ἀδελφός. οὗτοι μέντοι οὐκ ἠθέλησαν ἀποφήνασθαι, ὀρκώσαντες ἡμᾶς ἥ μὴν ἐμ-

<sup>1</sup> Μαιμακτηριῶνι Aldus: μμη.

<sup>2</sup> ἐπιτρέπειν Reiske: ἐπιτροπεύειν.

<sup>3</sup> ἔμμενείν Reiske hic et 33. 7: ἐμμένειν.

<sup>4</sup> προὔβαλόμην Reiske: προὔβαλον.

<sup>5</sup> Μελάνωπος Aldus: -οπος.

<sup>6</sup> τουτωῖ Scheibe: τούτῳ.

<sup>7</sup> Δικαιογένην Bekker: -νει.

relatives. We will now furnish a strong proof of our own forbearance and the injustice of Dicaeogenes. When the action against Leochares was coming on, gentlemen, in the month of Maemacterion,<sup>a</sup> Leochares and Dicaeogenes (III.) asked us to postpone the action and submit the matter to arbitration. We, just as though we had suffered only slight injuries, agreed to this and submitted the matter to four arbitrators, two of whom were nominated by us and two by our opponents. In their presence we agreed to abide by their decision and swore an oath to this effect. The arbitrators said, that if they could effect a compromise without putting themselves under an oath, they would do so ; otherwise they would themselves also take an oath and declare what they regarded as just. The arbitrators interrogated us many times and learnt the facts. The two whom I had proposed, Diotimus and Melanopus, expressed their readiness, with or without an oath, to declare what they regarded as the truth in the statements ; but the arbitrators whom Leochares had proposed refused to do so. Yet Diopeithes, one of the two arbitrators,<sup>b</sup> was brother-in-law of Leochares here and a personal enemy of mine, and had been my opponent in other actions regarding contracts, while Demaratus, his colleague, was a brother of Mnesiptolemus, who acted with Leochares as surety for Dicaeogenes (III.). These men, however, refused to pronounce their opinion, although they had made us swear that we would abide by

<sup>a</sup> The fifth month of the Attic calendar, October to November.

<sup>b</sup> *i.e.*, as the context shows, one of the two arbitrators nominated by the speaker's opponents.



μενεῖν οἷς [ἂν] αὐτοὶ γνοῖεν. καὶ τούτων ὑμῖν μάρ-  
τυρας παρέξομαι.

ΜΑΡΤΥΡΕΣ

- 34 Οὐκ οὖν δεινὸν εἰ δεήσεται ὑμῶν, ὦ ἄνδρες,  
Λεωχάρης ἀποψηφίσασθαι ἃ Διοπεΐθης κηδεστῆς  
ὢν αὐτοῦ κατεψηφίσατο; ἢ ὑμῖν πῶς καλὸν ἀπο-  
γνῶναι Λεωχάρους ἃ γε οὐδ' οἱ προσήκοντες αὐτοῦ  
ἀπέγνωσαν<sup>1</sup>; δέομαι οὖν ὑμῶν καταψηφίσασθαι  
Λεωχάρους, ἵν' ἃ ἡμῖν οἱ πρόγονοι κατέλιπον  
κομισώμεθα, καὶ μὴ μόνον τὰ ὀνόματα αὐτῶν  
ἔχωμεν ἀλλὰ καὶ τὰ χρήματα. τῶν δὲ Λεω-  
35 χάρους ἰδίων οὐκ ἐπιθυμοῦμεν.<sup>2</sup> Δικαιογένην γάρ,  
ὦ ἄνδρες, οὗτ' ἐλεεῖν ἐστε δίκαιοι <ὡς><sup>3</sup> κακῶς  
πράττοντα καὶ πενόμενον, οὗτ' εὖ ποιεῖν ὡς ἀγαθόν  
τι εἰργασμένον τὴν πόλιν· οὐδέτερα γὰρ αὐτῷ  
τούτων ὑπάρχει, ὡς ἐγὼ ἀποφανῶ,<sup>4</sup> ὦ ἄνδρες.  
ἅμα δὲ καὶ πλούσιον καὶ πονηρότατον αὐτὸν ὄντα  
ἀνθρώπων ἀποδείξω καὶ εἰς τὴν πόλιν καὶ εἰς  
τοὺς προσήκοντας καὶ εἰς τοὺς φίλους. οὗτος  
γὰρ παραλαβὼν τὸν κλῆρον παρ' ὑμῶν<sup>5</sup> φέροντα  
μίσθωσιν τοῦ ἐνιαυτοῦ ὀγδοήκοντα μνᾶς, καρ-  
πωσάμενος αὐτὸν δέκα ἔτη οὔτε ἀργύριον ὁμολογεῖ<sup>6</sup>  
κεκτῆσθαι οὔτε ὅποι ἀνήλωσεν ἔχει ἂν ἐπιδείξαι,  
36 ὦ ἄνδρες. ἄξιον δὲ καὶ ὑμῖν λογίσασθαι. οὗτος  
γὰρ τῇ μὲν φυλῇ εἰς Διονύσια χορηγήσας τέταρτος

<sup>1</sup> ἀπέγνωσαν Reiske: ἂν ἔγνωσαν.

<sup>2</sup> ἐπιθυμοῦμεν M, Aldus: ἐπεθ-.

<sup>3</sup> ὡς add. Bekker.

<sup>4</sup> ἀποφανῶ Reiske: ἀποφαίνω

<sup>5</sup> ὑμῶν Dobree: ἡμῶν.

<sup>6</sup> ὁμολογεῖ Bekker: ὠμολόγει.



## ON THE ESTATE OF DICAEOGENES, 33-36

whatever they themselves decided. Of these facts I will now produce witnesses before you.

### WITNESSES

Is it not extraordinary, gentlemen, that Leochares should ask you to absolve him where Diopeithes his brother-in-law condemned him? <sup>a</sup> Or how can it be right for you to acquit Leochares when even his relatives did not acquit him? I beseech you, therefore, to condemn Leochares, in order that we may recover what our forefathers left to us and possess not merely their names but their property also. The personal property of Leochares we do not covet. Dicaeogenes (III.), gentlemen, has no claim to your pity for misfortune or poverty, nor does he deserve any kindness for having done any good service to the city; he has no title to your consideration on either of these grounds, as I will prove to you, gentlemen. I will show you that he is at once rich and the meanest of men in his relations both to the city and to his kinsmen and to his friends. Having received by your verdict the property which brought in a yearly revenue of eighty minae, and having enjoyed it for ten years, he refuses to admit that he has saved money out of it nor can he show how he expended it, gentlemen. It is well worth your while to look into the matter. He acted as *choregus* for his tribe at the Dionysia and was fourth; as *choregus* in the tragic contest and Pyrrhic

<sup>a</sup> *i.e.*, by refusing to give an opinion in his favour.

ἐγένετο, τραγωδοῖς δὲ καὶ πυρριχισταῖς<sup>1</sup> ὕστατος·  
 ταύτας δὲ μόνας ἀναγκασθεῖς <τὰς><sup>2</sup> λητουργίας  
 λειτουργῆσαι ἀπὸ τοσαύτης προσόδου οὕτω καλῶς  
 ἐχορήγησεν. ἀλλὰ μὴν τριηράρχων τοσούτων κατα-  
 σταθέντων οὐτ' αὐτὸς ἐτριηράρχησεν οὐθ' ἑτέρω  
 συμβέβληται<sup>3</sup> ἐν τοιούτοις καιροῖς, ἀλλ' ἕτεροι<sup>4</sup>  
 μὲν οὐσίαν κεκτημένοι ἐλάττω ἢ οὗτος μίσθωσιν  
 37 λαμβάνει τριηραρχοῦσι. καίτοι, ὦ ἄνδρες, οὐχ ὁ  
 πατήρ αὐτῷ τὴν πολλὴν οὐσίαν κατέλιπεν, ἀλλ'  
 ὑμεῖς ἔδοτε τῇ ψήφῳ· ὥστε εἰ καὶ μὴ πολίτης ἦν,  
 διὰ γε τοῦτο δίκαιος ἦν τὴν πόλιν εὖ ποιεῖν.  
 εἰσφορῶν τοίνυν τοσούτων γεγενημένων πᾶσι τοῖς  
 πολίταις εἰς τὸν πόλεμον καὶ τὴν σωτηρίαν τῆς  
 πόλεως Δικαιογένης οὐκ ἔστιν ἦντινα εἰσενήνοχε·  
 πλὴν ὅτε Λέχαιον<sup>5</sup> ἐάλω, κληθεῖς ὑπὸ ἑτέρου ἐπ-  
 ἔδωκεν ἐν τῷ δήμῳ τριακοσίας δραχμάς, ἔλαττον  
 38 ἢ Κλεώνυμος ὁ Κρής· καὶ τοῦτο ἐπέδωκεν, οὐκ εἰς-  
 ἤνεγκεν, ἀλλ' ἐπ' αἰσχίστῳ ἐπιγράμματι<sup>6</sup> ἐξετέθη<sup>7</sup>  
 αὐτοῦ τοῦνομα ἔμπροσθεν τῶν ἐπωνύμων, ὅτι οἶδε<sup>8</sup>  
 εἰς σωτηρίαν τῆς πόλεως ὑποσχόμενοι τῷ δήμῳ  
 εἰσοίσειν χρήματα ἐθελονταὶ οὐκ εἰσήνεγκαν. καί-

<sup>1</sup> πυρριχισταῖς Palmer: -χυνέταις.

<sup>2</sup> τὰς add. Reiske.

<sup>3</sup> συμβέβληται Fuhr: -βέβληκεν.

<sup>4</sup> ἕτεροι Reiske: ἕτερος.

<sup>5</sup> Λέχαιον Reiske: λεχίον.

<sup>6</sup> ἐπιγράμματι Aldus: ὑπογρ-.

<sup>7</sup> ἐξετέθη Schoemann: ἐξ ἑτέρου.

<sup>8</sup> οἶδε Bekker: εἶδεν.

<sup>a</sup> In the dithyrambic contests the competition was by tribes, thus the chorus of which Dicaeogenes was choregus was placed fourth out of ten competing choruses. The tragic competition was between three choruses, not organized on a tribal basis. The Pyrrhic or Warrior Dance was executed at the Panathenaic festival; there is no evidence as to the number of competing choruses.

dances he was last.<sup>a</sup> These were the only public services which he undertook and then only under compulsion, and this was the fine show he made as *choregus* in spite of his great wealth! Moreover, though so many trierarchs were appointed, he never acted in this capacity by himself nor has he ever been associated in it with another <sup>b</sup> in all those years of crisis; yet others possessing less capital than he has income, act as trierarchs. Yet, gentlemen, his large fortune was not bequeathed to him by his father but given to him by your verdict; so that, even if he were not an Athenian citizen, he was in duty bound for this reason alone to do the city good service. Though so many extraordinary contributions for the cost of the war and the safety of the city have been made by all the citizens, Dicaeogenes (III.) has never contributed anything, except that after the capture of Lechaeum,<sup>c</sup> at the request of another citizen, he promised in the public assembly a subscription of 300 drachmas, a smaller sum than Cleonymus the Cretan.<sup>d</sup> This sum he promised but did not pay, and his name was posted on a list of defaulters in front of the statues of the Eponymous Heroes,<sup>e</sup> which was headed: "These are they who voluntarily promised the people to contribute money for the salvation of the city and failed to pay the amounts promised."

<sup>b</sup> After the battle of Aegospotami (405 B.C.) two citizens might jointly equip a vessel of war.

<sup>c</sup> One of the harbours of Corinth which was captured by the Spartans in 392 B.C.

<sup>d</sup> *i.e.*, one who was not even an Athenian citizen.

<sup>e</sup> The statues of the heroes who gave their names to the ten tribes stood below the north side of the Areopagus and above the Metroum and Council Chamber (Paus. i. 5. 1).

τοι πῶς ἄξιον θαυμάζειν, ὦ ἄνδρες, εἰ ἐμὲ ἐξηπάτησεν ἓνα ὄντα, ὃς ὑμᾶς ἅπαντας ἅμα συνειλεγμένους ἐν τῇ ἐκκλησίᾳ τοιαῦτα ἐποίησε; καὶ τούτων ὑμῖν τοὺς μάρτυρας παρέξομαι.

## ΜΑΡΤΥΡΕΣ

- [55] Εἰς μὲν τὴν πόλιν οὕτω καὶ τοσαῦτα | λελητούργηκε Δικαιογένης ἀπὸ τοσούτων χρημάτων· περὶ δὲ τοὺς προσήκοντας τοιοῦτός ἐστιν οἶον ὁρᾶτε, ὥστε τοὺς μὲν ἡμῶν ἀφείλετο τὴν οὐσίαν, ὅτι μείζον<sup>1</sup> ἐδυνήθη, τοὺς δὲ περιεώρα εἰς τοὺς μισθωτοὺς ἰόντας δι' ἔνδειαν τῶν ἐπιτηδείων. τὴν δὲ μητέρα [τὴν] αὐτοῦ καθημένην ἐν τῷ τῆς Εὐλειθυίας ἱερῷ πάντες ἐώρων, καὶ τούτῳ ἐγκαλοῦσαν ἃ ἐγὼ αἰσχύνομαι λέγειν, οὗτος δὲ ποιῶν οὐκ ἡσχύνετο. τῶν δ' ἐπιτηδείων Μέλανα μὲν τὸν Αἰγύπτιον, ὃν ἐκ μειρακίου φίλος ἦν, ὅπερ ἔλαβε παρ' αὐτοῦ ἀργύριον ἀποστερήσας, ἔχθιστός ἐστι· τῶν δὲ ἄλλων αὐτοῦ φίλων οἱ μὲν οὐκ ἀπέλαβον ἃ ἐδάνεισαν, οἱ δ' ἐξηπατήθησαν, καὶ οὐκ ἔλαβον ἃ ὑπέσχετο αὐτοῖς, εἰ ἐπιδικάσαιτο τοῦ κλήρου, δώσειν. καίτοι, ὦ ἄνδρες, οἱ ἡμέτεροι πρόγονοι οἱ ταῦτα κτησάμενοι καὶ καταλιπόντες πάσας μὲν χορηγίας ἐχορήγησαν, εἰσήμεναν δὲ εἰς τὸν πόλεμον χρήματα πολλὰ ὑμῖν, καὶ τριηραρχοῦντες οὐδένα χρόνον διέλιπον. καὶ τούτων μαρτύρια ἐν τοῖς ἱεροῖς ἀναθήματα ἐκείνοι ἐκ τῶν περιόντων, μνημεῖα τῆς αὐτῶν ἀρετῆς, ἀνέθεσαν,

<sup>1</sup> μείζον Aldus : μείζων.

<sup>a</sup> The goddess of childbirth. Reiske conjectures that the speaker is insinuating that Dicaeogenes committed incest with his own mother.

Indeed, gentlemen, what ground is there for astonishment that he deceived me, a single citizen, when he acted in this manner towards all of you united in assembly? Of these facts I will now produce witnesses before you.

## WITNESSES

Such are the manner and extent of the public services which Dicaeogenes has rendered to the city out of so large a fortune. Towards his relatives he is the sort of man that you see: some of us he robbed of our property because he was stronger than we were, others he allowed to resort to paid employment through lack of the necessities of life. Everyone saw his mother seated in the shrine of Eileithyia<sup>a</sup> and calling down upon him reproaches which I am ashamed to mention but which he was not ashamed to justify. Amongst his intimates he deprived Melas the Egyptian, who had been his friend from youth upwards, of money which he had received from him, and is now his bitterest enemy; of his other friends some have never received back money which they lent him, others were deceived by him and did not receive what he had promised to give them if he should have the estate adjudicated to him. And yet, gentlemen, our forefathers, who acquired and bequeathed this property, performed every kind of choregic office, contributed large sums for your expenses in war, and never ceased acting as trierarchs. As evidence of all these services they set up in the temples out of the remainder of their property,<sup>b</sup> as memorials of their civic worth, dedica-

<sup>b</sup> The expenses would be incurred in providing monuments, of which the well-known Choregic Monument of Lysicrates is a specimen, to support the tripods won as prizes.

τοῦτο μὲν ἐν Διονύσου τρίποδας, οὓς χορηγοῦντες  
 42 καὶ νικῶντες ἔλαβον, τοῦτο δ' ἐν Πυθίου· ἔτι δ' ἐν  
 ἀκροπόλει ἀπαρχὰς τῶν ὄντων ἀναθέντες πολλοῖς,  
 ὡς ἀπὸ ἰδίας κτήσεως, ἀγάλμασι χαλκοῖς καὶ  
 λιθίνοις κεκοσμήκασιν τὸ ἱερόν. αὐτοὶ δ' ὑπὲρ τῆς  
 πατρίδος πολεμοῦντες ἀπέθανον, Δικαιογένης μὲν  
 ὁ Μενεξένου τοῦ ἐμοῦ πάππου πατὴρ στρατηγῶν  
 ὅτε ἡ ἐν Ἐλευσίνι μάχη ἐγένετο, Μενέξενος δ' ὁ  
 ἐκείνου υἱὸς φυλαρχῶν τῆς Ὀλυνθίας<sup>1</sup> ἐν Σπαρτώλῳ,  
 Δικαιογένης δὲ ὁ Μενεξένου τριηραρχῶν τῆς  
 43 Παράλου ἐν Κνίδῳ. τὸν μὲν τούτων<sup>2</sup> οἶκον σύ, ὦ  
 Δικαιογένης, παραλαβὼν κακῶς καὶ αἰσχροῦς δι-  
 ολώλεκας, καὶ ἐξαργυρισάμενος πενίαν ὁδύρῃ, ποῖ<sup>3</sup>  
 ἀναλώσας; οὔτε γὰρ εἰς τὴν πόλιν οὔτε εἰς τοὺς  
 φίλους φανερός<sup>4</sup> εἶ δαπανηθεὶς οὐδέν. ἀλλὰ μὴν  
 οὔτε<sup>5</sup> καθιπποτρόφηκας· οὐ γὰρ πώποτε ἐκτήσω  
 ἵππον πλείονος ἄξιον ἢ τριῶν μνῶν· οὔτε κατεζευγο-  
 τρόφηκας, ἐπεὶ οὐδὲ ζευγος ἐκτήσω ὀρικὸν οὐδε-  
 πώποτε ἐπὶ τοσοῦτοις ἄγροῖς καὶ κτήμασιν. ἀλλ'  
 44 οὐδ' ἐκ τῶν πολεμίων ἐλύσω οὐδένα. ἀλλ' οὐδὲ τὰ  
 ἀναθήματα, ἃ Μενέξενος τριῶν ταλάντων ποιησά-  
 μενος ἀπέθανε πρὶν ἀναθεῖναι, εἰς πόλιν κεκόμικας,  
 ἀλλ' ἐν τοῖς λιθουργείοις<sup>6</sup> ἔτι καλινδεῖται,<sup>7</sup> καὶ αὐτὸς  
 μὲν ἡξίους κεκτηῖσθαι ἃ σοι οὐδὲν προσῆκε χρήματα,

<sup>1</sup> Ὀλυνθίας Palmer: Ὀλυσίας.    <sup>2</sup> τούτων Wyse: τοῦτον.

<sup>3</sup> ποῖ Bekker: ποῦ.

<sup>4</sup> φανερός Scaliger: φανερώς.

<sup>5</sup> οὔτε scripsi: οὐδέ.

<sup>6</sup> λιθουργείοις Stephanus: -γίοις.

<sup>7</sup> καλινδεῖται Cobet: κυλ-.

<sup>a</sup> Nothing is known of any battle at Eleusis. Dobree reads Ἀλιεῦσι (*cf.* Thuc. i. 104).

<sup>b</sup> In 429 B.C. (*cf.* Thuc. ii. 79).

<sup>c</sup> See § 6 and note.

<sup>d</sup> If the text is correct, the reference must be to Menexenus I.; but in that case it would have been the duty of Dicaeogenes II. to set up the statues after his father's death.

tions, such as tripods which they had received as prizes for choregic victories in the temple of Dionysus, or in the shrine of Pythian Apollo. Furthermore, by dedicating on the Acropolis the first-fruits of their wealth, they have adorned the shrine with bronze and marble statues, numerous, indeed, to have been provided out of a private fortune. They themselves died fighting for their country; Dicaeogenes (I.), the son of Menexenus, the father of my grandfather Menexenus (I.), while acting as general when the battle took place at Eleusis <sup>a</sup>; Menexenus (I.), his son, in command of the cavalry at Spartolus in the territory of Olynthus <sup>b</sup>; Dicaeogenes (II.), the son of Menexenus (I.), while in command of the Paralus <sup>c</sup> at Cnidus. It is the property of these men, Dicaeogenes, that you inherited and have wickedly and disgracefully squandered, and having converted it into money you now plead poverty. On what did you spend it? For you have obviously not expended anything on the city or your friends. You have certainly not ruined yourself by keeping horses—for you have never possessed a horse worth more than three minae—, nor by keeping racing teams—for you never owned even a pair of mules in spite of possessing so many farms and estates. Nor again did you ever ransom a prisoner of war. You have never even transported to the Acropolis the dedications upon which Menexenus (I.) <sup>d</sup> expended three talents and which his death prevented him from setting up, but they are still knocking about in the sculptor's workshop; and thus, while you yourself claimed the possession of money to which you had no title, you



τοῖς δὲ θεοῖς οὐκ ἀπέδωκας ἃ ἐκείνων ἐγίγνετο  
 45 ἀγάλματα. διὰ τί οὖν ἀξιώσεις σου τοὺς δικαστὰς  
 ἀποψηφίσασθαι, ὦ Δικαιογένης; πότερον ὅτι  
 πολλὰς λητουργίας λελητούργηκας τῇ πόλει, καὶ  
 πολλὰ χρήματα δαπανήσας σεμνοτέραν τὴν πόλιν  
 τούτοις ἐποίησας; ἢ ὡς τριηραρχῶν πολλὰ κακὰ  
 τοὺς πολεμίους εἰργάσω, καὶ εἰσφορὰς δεομένη τῇ  
 πατρίδι εἰς τὸν πόλεμον εἰσενεγκῶν μεγάλα ὠφέ-  
 46 ληκας; ἀλλ' οὐδέν σοι τούτων πέπρακται. ἀλλ'  
 ὡς στρατιώτης ἀγαθός; ἀλλ' οὐκ ἐστράτευσαι  
 τοσούτου καὶ τοιούτου γενομένου πολέμου, εἰς ὃν  
 Ὀλύνθιοι μὲν καὶ νησιῶται ὑπὲρ τῆσδε τῆς γῆς  
 ἀποθνήσκουσι μαχόμενοι τοῖς πολεμίοις, σὺ δέ, ὦ  
 Δικαιογένης, πολίτης ὢν οὐδ' ἐστράτευσαι. ἀλλ'  
 ἴσως διὰ τοὺς προγόνους ἀξιώσεις μου πλέον ἔχειν,  
 ὅτι τὸν τύραννον ἀπέκτειναν. ἐγὼ δ' ἐκείνους μὲν  
 ἐπαινῶ, σοὶ δὲ οὐδὲν ἡγοῦμαι τῆς ἐκείνων ἀρετῆς  
 47 μετεῖναι. πρῶτον μὲν γὰρ εἴλου ἀντὶ τῆς ἐκείνων  
 δόξης τὴν ἡμετέραν οὐσίαν κτήσασθαι, καὶ ἐβουλή-  
 θης μᾶλλον Δικαιογένους καλεῖσθαι ὑὸς ἢ Ἀρμο-  
 δίου, ὑπεριδὼν μὲν τὴν ἐν Πρυτανείῳ σίτησιν, κατα-  
 φρονήσας δὲ προεδριῶν<sup>1</sup> καὶ ἀτελειῶν, ἃ τοῖς  
 ἐξ ἐκείνων γεγονόσι δέδοται. ἔτι δὲ ὁ Ἀριστο-  
 γείτων ἐκεῖνος καὶ Ἀρμόδιος οὐ διὰ τὸ γένος  
 ἐτιμήθησαν ἀλλὰ διὰ τὴν ἀνδραγαθίαν, ἧς σοι οὐδὲν  
 μέτεστιν, ὦ Δικαιογένης.

<sup>1</sup> προεδριῶν M, Aldus: -ρειῶν.

<sup>a</sup> Probably in the Corinthian War (394–386 B.C.).

<sup>b</sup> Hipparchus.

<sup>c</sup> i.e., was willing to be adopted into another family in order to inherit money.

<sup>d</sup> The senior male representatives of the families of



never rendered up to the gods statues which were theirs by right. What possible reason will you give, Dicaeogenes, that the judges should acquit you? Will you allege that you have performed many public services for the city and added to the dignity of the city by lavish expenditure? Will you say that as trierarch you have inflicted heavy losses upon the enemy, or bestowed great benefits upon your country in her hour of need by contributing to the expenses of the war? No, you have done none of these things. Do you claim acquittal on the ground that you have proved yourself a good soldier? But you never served at all in the whole course of the long and critical war, during which the Olynthians and the islanders are dying fighting against the foe in the defence of our land,<sup>a</sup> but you, Dicaeogenes, though you were an Athenian citizen, have never served at all. Perhaps you will claim an advantage over me for the sake of your forefathers, because they slew the tyrant<sup>b</sup>? I pay them all due homage, but I do not think that you have any share of their valour. In the first place, you preferred to possess our property rather than their glory, and wished to be called son of Dicaeogenes rather than of Harmodius,<sup>c</sup> despising the right of dining in the town hall and disdaining the seats of honour and the immunities granted to the descendants of those heroes.<sup>d</sup> Further, the great Aristogeiton and Harmodius were honoured, not because of their birth but because of their bravery, of which you, Dicaeogenes, have no share.

Harmodius and Aristogeiton enjoyed the right to dine with the prytaneis in the town hall (*θόλος*), seats of honour at public functions, and certain immunities from taxation.



VI. ON THE ESTATE OF  
PHILOCTEMON

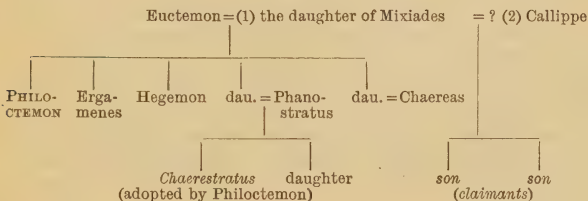


## VI. ON THE ESTATE OF PHILOCTEMON

### INTRODUCTION

EUCTEMON of Cephisia,<sup>a</sup> a man of considerable wealth consisting mainly of real property, had three sons, Philoctemon, Ergamenes, and Hegemon, and two daughters, married respectively to Phanostratus and Chaereas. All three sons predeceased their father, the last to die being Philoctemon, who was killed in action off Chios, probably about 376 B.C. None of the sons left any issue; but Philoctemon in his will had adopted Chaerestratus, the child of his sister, the wife of Phanostratus, as his son and heir to his estate. It appears, however, that, though the rights of a son adopted by will had to be established by an application to the courts, Chaerestratus had taken no steps, after Philoctemon's death, to have himself thus recognized—probably because Philo-

#### <sup>a</sup> STEMMA



## ISAEUS

ctemon had possessed no estate separate from that of his father, and it was therefore to Chaerestratus's advantage to remain in his original family. Euctemon himself died at the advanced age of ninety-six ; whereupon Chaerestratus claimed his estate.

The claim of Chaerestratus was opposed by a kinsman of Euctemon, by name Androcles, who, after having first attempted to obtain possession of the estate by demanding the hand of Euctemon's daughter, the widow of Chaereas, on the ground that she was an heiress and he himself the next of kin, put in a protestation (*διαμαρτυρία*) that the estate was not liable to adjudication, because Euctemon had left two legitimate sons, the children of a certain Callippe. He also asserted that Philoctemon had made no will. Of the two youths thus put forward as heirs, the elder was not more than twenty years of age (§ 14), so that he must have been born when Euctemon was at least seventy-six years of age. There was, however, strong evidence of his legitimacy in the fact, admitted by the opposing party, that Euctemon had introduced him into his ward as his son, and that he had been accepted as such by the members of the ward, who were bound by law to exclude illegitimate sons from the rights of citizenship.

In these circumstances the only course open to Chaerestratus was to prosecute Androcles and his associate Antidorus for perjury committed in the protestation. It was in this action that the present speech was delivered by a friend of the family of Chaerestratus. He begins by calling evidence to prove that Philoctemon made a will and by quoting the laws to show that he had the right to do so. But

## ON THE ESTATE OF PHILOCTEMON

the greater part of the speech is taken up with disproving the legitimacy of the alleged sons of Euctemon. It is asserted that during the later years of his life Euctemon fell victim to the wiles of a prostitute of servile birth, named Alce, who was the manageress of a tenement-house belonging to the old man ; visiting the house regularly to collect the rents, he at length allowed himself to be beguiled into leaving his own home and family and taking up his abode with her. The two claimants were, it is alleged, her sons by a freedman named Dion, but she persuaded Euctemon to recognize them as his children, and even to introduce one of them to the members of his ward as his legitimate son. The members of the ward at first refused to accept him ; but, after Philoctemon had been induced to withdraw his opposition on the understanding that the child should receive no property except a single farm, he was again presented and accepted by the ward. After the death of Philoctemon, Euctemon revoked the document which had recorded the arrangement between the father and son. The speaker alleged that the cause of this act was the intervention of Androcles and Antidorus, who had entered into a plot with Alce to plunder Euctemon's estate under the pretence that they were guardians of her two sons. Their plots, it is alleged, were so far successful that before Euctemon's death half his capital had been made away with and his house was actually stripped of its contents while he lay dead within it. The speaker then proceeds to point out the inconsistency of Androcles in demanding the hand of Euctemon's daughter on the ground that she was an heiress, a quality which she could not

possibly possess, if, as he further alleged, Euctemon had left two legitimate sons. He concludes by attacking the character of Androcles and commending the public spirit and generosity of Chaerestratus and his family.

The case is well presented, and the speech has been regarded by several critics as perhaps the best of the surviving compositions of Isaeus. The weakness of the argument lies in the facts that, as has been pointed out, Chaerestratus had never applied for legal recognition of his status as adopted son of Philoctemon, and that, in any case, it was the estate of Euctemon and not that of Philoctemon which was really being claimed.

An interesting point, which has given rise to various theories, is that, though the wife of Euctemon (the daughter of Mixiades) survived her husband, her existence is never used as an argument to disprove the possibility of a second marriage. It has even been employed as an argument in favour of the theory that polygamy, or at any rate some form of concubinage, of which the issue was regarded as legitimate, was permitted at Athens after the Peloponnesian war. It appears from the *Andromache* of Euripides (ll. 177 ff., 465 ff.) that such a project was discussed, but there is no conclusive evidence that it was ever actually carried into effect. In any event, the present speech can hardly be employed as evidence in favour of this theory, since it is more than likely that Euctemon was separated from his wife and that the speaker purposely refrained from mentioning the circumstance, since to admit the possibility of a second marriage would obviously damage his case.



## ON THE ESTATE OF PHILOCTEMON

The date of the speech can be fixed as 364 B.C. by the words of § 14, which state that fifty-two years had elapsed since the departure from Athens of the Sicilian expedition. It seems likely that Chaerestratus lost his case, since in an inscription (*I.G.* ii. No. 1177. 11), which is assigned by Koehler to the middle of the fourth century or a little later, he is still described as the “son of Phanostratus,” whereas, if he had been successful, he would have become “the son of Philoctemon.”

## VI. ΠΕΡΙ ΤΟΥ ΦΙΛΟΚΤΗΜΟΝΟΣ ΚΛΗΡΟΥ

### ΥΠΟΘΕΣΙΣ

[56] Εὐκτῆμονος υἱὸς Φιλοκτῆμων τὸν τῆς ἐτέρας τῶν ἀδελφῶν καὶ Φανοστράτον υἱὸν Χαιρέστρατον ποιησάμενος κατὰ διαθήκας τεθείσας παρὰ Χαιρέα τῷ τῆς ἐτέρας ἀδελφῆς ἀνδρί, ἐτελεύτησε ζῶντος ἔτι τοῦ πατρός· ὕστερον δὲ κακείνου ἀποθανόντος ἔλαχεν ὁ Χαιρέστρατος τοῦ κλήρου κατὰ τὸν νόμον. διαμαρτυρήσαντος δὲ Ἀνδροκλέους μὴ εἶναι ἐπίδικον ὄντος Ἀντιδώρου γνησίου παιδὸς Εὐκτῆμονι, οἱ περὶ Χαιρέστρατον ἐπεσκήψαντο τῇ διαμαρτυρίᾳ, καὶ τοῦτον καὶ τὴν ἀδελφὴν αὐτοῦ νόθους γεγονέναι φάσκοντες, τὸν δὲ νόμον διαγορεύειν νόθῳ καὶ νόθῃ μὴ εἶναι ἀγχιστέϊαν. ἡ στάσις στοχασμός· ἄδηλον γὰρ εἰ ἐποίησε Φιλοκτῆμων Χαιρέστρατον υἱὸν ἑαυτῷ, καὶ πάλιν ἄδηλον εἰ γνήσιοί εἰσιν οἱ περὶ Ἀντίδωρον.

- 1 Ὅτι μὲν, ὦ ἄνδρες, πάντων οἰκειότατα <τυγχάνω><sup>1</sup> χρώμενος Φανοστράτῳ τε καὶ Χαιρεστράτῳ τουτῷ,<sup>2</sup> τοὺς πολλοὺς οἶμαι ὑμῶν εἰδέναι, τοῖς δὲ μὴ εἰδόσιν ἱκανὸν ἔρῳ τεκμήριον· ὅτε γὰρ εἰς

<sup>1</sup> τυγχάνω add. Blass.

<sup>2</sup> τουτῷ Scheibe: τοῦτῳ.

<sup>a</sup> This is a mistake. Antidorus was the name of one of the guardians (§§ 39, 47). The names of the two alleged sons are not stated anywhere in the speech.

<sup>b</sup> Another mistake. No sister is mentioned in the speech.

<sup>c</sup> If the reading here is correct, Chaerestratus, who is still a young man at the date of this speech (§ 60) and therefore

## VI. ON THE ESTATE OF PHILOCTEMON

### ARGUMENT

Philoctemon, a son of Euctemon, adopted Chaerestratus, the son of one of his two sisters and of Phanostratus, in a will which was deposited with Chaereas, the husband of the other sister, and died during his father's lifetime. When the latter also died, Chaerestratus claimed possession in accordance with the law. When Androcles lodged a protestation that the estate was not adjudicable because Euctemon had a legitimate son, namely, Antidorus,<sup>a</sup> Chaerestratus and his supporters impugned the protestation, declaring that both Antidorus and his sister <sup>b</sup> were illegitimate and that the law ordains that an illegitimate son or daughter cannot inherit as next-of-kin. The discussion turns on questions of fact; for it is uncertain whether Philoctemon adopted Chaerestratus as his son, and, further, whether Antidorus and the other child are legitimate.

That I am on terms of very close friendship with Phanostratus and with Chaerestratus here, I think most of you, gentlemen, are aware, but to those who are not aware of it I will give a convincing proof. When Chaerestratus <sup>c</sup> set sail for Sicily in cannot have taken part in the famous Sicilian expedition of 415-413 B.C., must have sailed to Sicily on some occasion of which we have no historical record. The emendation *Φανόστρατος*, adopted by most editors, is precluded by the words *δεομένων τούτων*, which can only refer to Phanostratus and Chaerestratus; although Phanostratus might have taken part in the Sicilian Expedition, Chaerestratus could not have been then alive and therefore would not have requested the speaker to accompany his father to Sicily.

Σικελίαν ἐξέπλει τριηραρχῶν Χαιρέστρατος, διὰ τὸ πρότερον αὐτὸς ἐκπεπλευκέναι προήδειν πάντας τοὺς ἐσομένους κινδύνους, ὅμως δὲ δεομένων τούτων καὶ συνεχέπλευσα καὶ συνεδυστύχησα καὶ  
 2 ἐάλωμεν εἰς τοὺς πολεμίους. ἄτοπον δὴ εἰ ἐκεῖνα μὲν προδήλων ὄντων τῶν κινδύνων ὅμως διὰ τὸ χρῆσθαι τούτοις καὶ φίλους νομίζειν ὑπέμενον, νῦν δὲ οὐ πειρώμην συνειπεῖν ἐξ ὧν ὑμεῖς τε τὰ<sup>1</sup> εὖορκα ψηφιεῖσθε καὶ τούτοις τὰ δίκαια γενήσεται. δέομαι οὖν ὑμῶν συγγνώμην τε ἔχειν καὶ μετ' εὐνοίας ἀκροάσασθαι· ὁ γὰρ ἀγὼν οὐ μικρὸς αὐτοῖς, ἀλλὰ περὶ τῶν μεγίστων.

3 Φιλοκτήμων γὰρ ὁ Κηφισιεὺς φίλος ἦν Χαιρεστράτῳ τουτωῖ<sup>2</sup> δούς δὲ τὰ ἑαυτοῦ καὶ υἱὸν αὐτὸν ποιησάμενος ἐτελεύτησε. λαχόντος δὲ τοῦ Χαιρεστράτου κατὰ τὸν νόμον τοῦ κλήρου, ἐξὸν ἀμφισβητῆσαι Ἀθηναίων τῷ βουλομένῳ καὶ εὐθυδικία εἰσελθόντι εἰς ὑμᾶς, εἰ φαίνοιτο δικαιότερα λέγων,  
 4 ἔχειν τὸν κλῆρον, διεμαρτύρησεν Ἀνδροκλῆς οὕτοσιν μὴ ἐπίδικον εἶναι τὸν κλῆρον, ἀποστερῶν τοῦτον τῆς ἀμφισβητήσεως καὶ ὑμᾶς τοῦ κυρίου γενέσθαι ὅντινα δεῖ κληρονόμον καταστήσασθαι<sup>3</sup> τῶν Φιλοκτήμονος· καὶ ἐν μιᾷ ψήφῳ καὶ ἐνὶ ἀγῶνι οἶεται ἀδελφοὺς καταστήσειν ἐκείνῳ τοὺς οὐδὲν προσήκοντας, καὶ τὸν κλῆρον ἀνεπίδικον ἔξειν αὐτός, καὶ τῆς ἀδελφῆς τῆς ἐκείνου κύριος γενή-

<sup>1</sup> τε τὰ Reiske: τά τε.

<sup>2</sup> τουτωῖ Scheibe: τούτῳ.

<sup>3</sup> καταστήσασθαι Aldus: -εσθαι.

## ON THE ESTATE OF PHILOCTEMON, 1-4

command of a trireme, although, having sailed thither myself before, I knew well all the dangers which I should encounter, yet, at the request of these friends of mine, I sailed with him and shared his misfortune, and we were both made prisoners of war. It would be strange if I endured all this in the face of evident danger because of my friendship and affection for them, and yet were not now to attempt so to plead their cause that you shall pass a sentence in accordance with your oath and that justice shall be done to my clients. I entreat you, therefore, to grant me indulgence and to listen to me with goodwill; for the suit is of no slight importance to them, but their most vital interests are at stake.

Philoctemon of Cephisia was a friend of Chaerestratus here, and died, having bequeathed to him his property and having adopted him as his son. Chaerestratus in accordance with the law<sup>a</sup> claimed the estate. But, since it is lawful for any Athenian who wishes to do so to dispute an inheritance by bringing a direct action before you, and if he can establish a better claim, to obtain possession of the estate, Androcles here put in a protestation declaring that the succession was not adjudicable, thus depriving my client of his right to claim the estate and you of your right to decide who ought to be declared heir to Philoctemon's property. He thus thinks by a single verdict and by a single suit to establish as brothers of the deceased men who have no sort of connexion with him, to place himself in possession of the estate without further legal procedure, to become legal representative of the sister of the

was not necessary for a son adopted in the lifetime of the testator.

5 σεσθαι, καὶ τὴν διαθήκην ἄκυρον ποιήσιν. πολλῶν  
 δὲ καὶ δεινῶν ὄντων ἃ διαμεμαρτύρηκεν Ἀνδρο-  
 κλῆς, τοῦτ' αὐτὸ πρῶτον ἐπιδείξω ὑμῖν, ὡς  
 διέθετο καὶ ἐποιήσατο ὑὸν τουτονὶ Χαιρέστρατον.  
 ἐπειδὴ γὰρ τῷ Φιλοκτῆμονι ἐκ μὲν τῆς γυναικὸς  
 ἧ συνώκει οὐκ ἦν παιδίον οὐδέν, πολέμου δ' ὄντος  
 ἐκινδύνευε καὶ ἱππεὺς στρατευόμενος καὶ τριήρ-  
 αρχος πολλάκις ἐκπλέων, ἔδοξεν αὐτῷ διαθέσθαι  
 τὰ αὐτοῦ, μὴ ἔρημον καταλίπη τὸν οἶκον, εἴ τι  
 6 πάθοι. τῷ μὲν οὖν ἀδελφῷ αὐτῷ, ὥπερ<sup>1</sup> ἐγε-  
 νέσθην, ἄμφω ἄπαιδε ἐτελευτησάτην· τοῖν<sup>2</sup> δὲ ἀδελ-  
 φαῖν τῇ μὲν ἐτέρᾳ, ἧ ὁ Χαιρέας συνώκει, οὐκ ἦν  
 ἄρρεν παιδίον οὐδὲ ἐγένετο πολλὰ ἔτη συνοικούσῃ,  
 ἐκ δὲ τῆς ἐτέρας, ἧ συνώκει Φανόστρατος οὕτοσί,  
 ἦσθην ὑὸς δύο. τούτων τὸν πρεσβύτερον τουτονὶ  
 7 Χαιρέστρατον ἐποιήσατο ὑόν· καὶ ἔγραψεν οὕτως<sup>3</sup>  
 ἐν διαθήκῃ, εἰ μὴ γένοιτο αὐτῷ παιδίον ἐκ τῆς  
 γυναικὸς, τοῦτον κληρονομεῖν τῶν ἑαυτοῦ. καὶ  
 τὴν διαθήκην κατέθετο παρὰ τῷ κηδεστῇ Χαιρέᾳ,  
 τῷ τὴν ἐτέραν αὐτοῦ ἀδελφὴν ἔχοντι. καὶ ὑμῖν ἧ  
 τε διαθήκῃ αὕτη ἀναγνωσθήσεται<sup>4</sup> καὶ οἱ παρα-  
 γενόμενοι μαρτυρήσουσι. καὶ μοι ἀνάγνωθι.

ΔΙΑΘΗΚΗ. <ΜΑΡΤΥΡΕΣ>

8 Ὡς μὲν διέθετο καὶ ἐφ' οἷς ἐποιήσατο ὑὸν τοῦ-  
 τον, ἀκηκόατε· ὡς δ' ἐξὸν αὐτῷ ταῦτ' ἔπραξεν,  
 ὅθεν δικαιοτάτα ἡγοῦμαι τὰ τοιαῦτ' εἶναι μαν-  
 [57] θάνειν, τοῦτον ὑμῖν αὐτὸν | παρέξομαι τὸν νόμον.  
 καὶ μοι ἀνάγνωθι.

<sup>1</sup> ὥπερ Reiske: ὥσπερ.

<sup>2</sup> τοῖν Naber: ταῖν.

<sup>3</sup> οὕτως Aldus: οὗτος.

<sup>4</sup> ἀναγνωσθήσεται M, Aldus: ἀναγνώσεται.

deceased, and to annul the will. Androcles has made a number of extraordinary allegations in his protestation ; I will take one point first and prove that Philoctemon made a will and adopted Chaerestratus here as his son. Seeing that Philoctemon had no issue by the woman to whom he was married, and since, as it was war-time, he was running considerable risks, serving in the cavalry and often sailing as trierarch, he resolved to dispose of his property by will, so that he might not leave his house desolate if anything happened to him. He had had two brothers, both of whom died without issue : of his two sisters one, who was the wife of Chaereas, had no son and had never had one, though she had been married for many years ; the other, who was wife of Phanostratus here, had two sons. It was the elder of these, Chaerestratus here, whom Philoctemon adopted as his son. Under the terms of his will, if he had no child by his wife, Chaerestratus inherited his estate. He deposited his will with Chaereas, his brother-in-law, the husband of his other sister. This will shall now be read to you, and those who were present at its execution shall give evidence. Please read it.

#### WILL. WITNESSES

You have now heard that Philoctemon made a will, and on what conditions he adopted Chaerestratus as his son. To prove that he had a right to do so, I will produce the text of the law which is in my opinion the best source of information in such matters. Please read it.

- 9 Οὐτοσί ὁ νόμος, ὦ ἄνδρες, κοινὸς ἅπασι κεῖται, ἐξεῖναι τὰ ἑαυτοῦ διαθέσθαι, εἰ μὴ παῖδες ὥσι γνήσιοι ἄρρενες, εἰ μὴ ἄρα μανεῖς ἢ ὑπὸ γήρως ἢ δι' ἄλλο τι τῶν ἐν τῷ νόμῳ παρανοῶν διαθῆται. ὅτι δ' οὐδενὶ τούτων ἔνοχος ἦν Φιλοκτήμων, βραχέα εἰπὼν δηλώσω ὑμῖν. ὅστις γὰρ καὶ ἕως ἔζη τοιοῦτον πολίτην ἑαυτὸν παρείχεν, ὥστε διὰ τὸ ὑφ' ὑμῶν τιμᾶσθαι ἄρχειν ἀξιούσθαι, καὶ ἐτελεύτησε μαχόμενος τοῖς πολεμίοις, πῶς ἂν τις τοῦτον τολμήσειεν εἰπεῖν ὡς οὐκ εὖ ἐφρόνει;
- 10 Ὅτι μὲν οὖν διέθετο καὶ ἐποίησατο εὖ φρονῶν, ἐξὸν αὐτῷ, ἀποδέδεικται ὑμῖν, ὥστε κατὰ μὲν τοῦτο ψευδῇ μεμαρτυρηκῶς Ἀνδροκλῆς ἀποδέδεικται· ἐπειδὴ δὲ προσδιαμαρτύρηκεν [ὥς] ὑὸν εἶναι γνήσιον Εὐκτῆμονος τοῦτον, καὶ ταῦτ' ἀποδείξω ψευδῇ ὄντα. Εὐκτῆμονι γάρ, ὦ ἄνδρες, τῷ Φιλοκτήμονος πατρί, τοὺς μὲν ὄντως γενομένους παῖδας, Φιλοκτήμονα καὶ Ἑργαμένην καὶ Ἥγήμονα καὶ δύο θυγατέρας, καὶ τὴν μητέρα αὐτῶν, ἣν ἔγημεν ὁ Εὐκτῆμων, Μειξιάδου<sup>1</sup> Κηφισίως θυγατέρα, πάντες οἱ προσήκοντες ἴσασι καὶ οἱ φράτορες καὶ τῶν δημοτῶν οἱ πολλοί, καὶ
- 11 μαρτυρήσουσιν ὑμῖν· ὅτι δ' [οὐδ'] ἄλλην τινὰ ἔγημε γυναῖκα, ἐξ ἧς τινος οἶδε αὐτῷ ἐγένοντο, οὐδεὶς τὸ παράπαν οἶδεν οὐδ' ἤκουσε πώποτε ζῶντος Εὐκτῆμονος. καίτοι τούτους εἰκὸς πιστοτάτους εἶναι νομίζειν μάρτυρας· τοὺς γὰρ οἰκείους εἰδέναι προσήκει τὰ τοιαῦτα. καὶ μοι τούτους κάλει πρῶτον, καὶ τὰς μαρτυρίας ἀνάγνωθι.

<sup>1</sup> Μειξιάδου Dobree; Μηξιάδου.



## LAW

This law, gentlemen, holds good for all men alike, permitting anyone to dispose of his property in default of male issue, providing that, at the time of doing so, he is not insane or mentally incapacitated by old age or any other of the causes mentioned in the law. That Philoctemon did not fall under any of these exceptions, I will prove to you in a few words. For how could anyone dare to say that a man was not in full possession of his faculties, who all his life showed himself so good a citizen, that, owing to your esteem for him, he was considered worthy to hold command, and who died fighting against the enemy?

That he made a will and adopted a son when he was in full possession of his faculties, as he was entitled to do, has been proved to you; it follows from this that Androcles has been proved to have committed perjury. But since he has further stated in his protestation that my opponent is a legitimate son of Euctemon, I will prove this also to be false. The real sons of Euctemon, the father of Philoctemon, namely, Philoctemon himself, Ergamenes, and Hegemon, and his two daughters and their mother, Euctemon's wife, the daughter of Meixiades of Cephisia, are well known to all their relatives and to the members of the ward and to most of the demesmen, and they shall testify to you; but no one is aware or ever heard a word during Euctemon's lifetime of his having married any other wife who became mother by him of our opponents. Yet it is only natural that these should be most trustworthy witnesses; for relatives ought to know about such matters. Please call them first and read the depositions.

- 12 Ἐπι τοίνυν καὶ τοὺς ἀντιδίκους ἐπιδείξω ἔργῳ ὑμῖν ταῦτα μεμαρτυρηκότας. ὅτε γὰρ αἱ ἀνακρίσεις ἦσαν πρὸς τῷ ἄρχοντι καὶ οὗτοι παρακατέβαλον ὡς ὑπὲρ γνησίων τῶνδ' Εὐκτῆμονος ὄντων, ἐρωτώμενοι ὑφ' ἡμῶν τίς εἶη αὐτῶν μήτηρ καὶ ὅτου θυγάτηρ οὐκ εἶχον ἀποδείξαι, διαμαρτυρομένων ἡμῶν καὶ τοῦ ἄρχοντος κελεύοντος ἀποκρίνασθαι κατὰ τὸν νόμον. <καίτοι ἄτοπον>,<sup>1</sup> ὧ ἄνδρες, ἀμφισβητεῖν μὲν ὡς ὑπὲρ γνησίων καὶ διαμαρτυρεῖν, μητέρα δὲ ἥτις ἦν μὴ ἔχειν ἀποδείξαι, 13 μὴδὲ προσήκοντα αὐτοῖς μὴδένα. ἀλλὰ τότε μὲν Λημνίαν σκηψάμενοι ταύτην ἀναβολὴν ἐποιήσαντο· τὸ δ' ὕστερον ἦκοντες εἰς τὴν ἀνάκρισιν, πρὶν καί τινα ἐρέσθαι, εὐθὺς ἔλεγον ὅτι Καλλίππη μήτηρ, αὕτη δ' εἶη Πιστοξένου θυγάτηρ, ὡς ἐξαρκέσον εἰ ὄνομα μόνον πορίσαιντο τὸν Πιστόξενον. ἐρομένων δ' ἡμῶν ὅστις εἶη καὶ εἰ ζῇ ἢ μὴ, ἐν Σικελίᾳ ἔφασαν ἀποθανεῖν στρατευόμενον, καταλιπόντα ταύτην θυγατέρα παρὰ τῷ Εὐκτῆμονι, ἐξ ἐπιτροπευομένης δὲ τούτῳ γενέσθαι, πρᾶγμα πλάττοντες<sup>2</sup> ἀναιδεῖα ὑπερβάλλον καὶ οὐδὲ γενόμενον, ὡς ἐγὼ ὑμῖν ἀποφανῶ ἐκ τούτων πρῶτον ὧν αὐτοὶ 14 ἀπεκρίναντο. τῇ μὲν γὰρ στρατιᾷ, ἀφ' οὗ ἐξέπλευσεν εἰς Σικελίαν, ἥδη ἐστὶ δύο καὶ πεντήκοντα ἔτη, ἀπὸ Ἀριμνήστου ἄρχοντος, τῷ δὲ πρεσβυτέρῳ τούτων, ὧν<sup>3</sup> φασιν ἐκ τῆς Καλλίππης καὶ τοῦ

<sup>1</sup> καίτοι ἄτοπον add. Scheibe.<sup>2</sup> πλάττοντες Bekker: πράττοντες.<sup>3</sup> ὧν Reiske: δν.

<sup>a</sup> The Sicilian expedition set out in the summer of 415 B.C. (Thuc. vi. 30). The date of this speech must therefore be 364 B.C.

## ON THE ESTATE OF PHILOCTEMON, 12-14

### DEPOSITIONS

Further, I will prove that our adversaries have actually given evidence in support of these facts. When the interrogations took place before the archon, and my opponents paid money into court in support of their claim that these young men were the legitimate sons of Euctemon, on being asked by us who, and whose daughter, their mother was, they could not supply the information, although we protested and the archon ordered them to reply in accordance with the law. It was surely a strange proceeding, gentlemen, to make a claim on their behalf as legitimate and to lodge a protestation, and yet not be able to state who was their mother or name any of their relatives. At the time they alleged that she was a Lemnian and so secured a delay ; subsequently, when they appeared at the interrogation, without giving time for anyone to ask a question, they immediately declared that the mother was Callippe and that she was the daughter of Pistoxenus, as though it was enough for them merely to produce the name of Pistoxenus. When we asked who he was and whether he was alive or not, they said that he had died on military service in Sicily, leaving a daughter, this Callippe, in the house of Euctemon, and that these two sons were born to her while she was under his guardianship, thus inventing a story surpassing the limits of impudence and quite untrue, as I will prove to you first of all from the answers which they themselves gave. Fifty-two years have passed since the Sicilian expedition, reckoning from the date of its departure in the archonship of Arimnestus ;<sup>a</sup> yet the elder of these two alleged sons of Callippe and

- Εὐκτῆμονος εἶναι, οὐπω ὑπὲρ εἴκοσιν ἔτη. ἀφελόντι οὖν ταῦτα ἀπὸ τῶν ἐν Σικελίᾳ ὑπολείπεται πλείω ἢ τριάκοντα ἔτη· ὥστ' οὐτ'<sup>1</sup> ἐπιτροπεύεσθαι προσῆκε<sup>2</sup> τὴν Καλλίππην ἔτι, τριακοντοῦτίν γε οὔσαν, οὔτε ἀνέκδοτον καὶ ἄπαιδα εἶναι, ἀλλὰ πάννυ πάλαι συνοικεῖν, ἢ ἐγγυηθεῖσαν κατὰ νόμον
- 15 ἢ ἐπιδικασθεῖσαν. ἔτι δὲ καὶ γινώσκεισθαι αὐτὴν ὑπὸ τῶν Εὐκτῆμονος οἰκείων ἀναγκαῖον ἦν καὶ ὑπὸ τῶν οἰκετῶν, εἴ πέρ γε συνώκησεν ἐκείνῳ ἢ διηγήθη τοσοῦτον χρόνον ἐν τῇ οἰκίᾳ. τὰ γὰρ τοιαῦτα οὐκ εἰς τὴν ἀνάκρισιν μόνον δεῖ πορίζεσθαι [ὀνόματα] ἀλλὰ τῇ ἀληθείᾳ γεγονότα φαίνεσθαι καὶ ὑπὸ τῶν προσηκόντων καταμαρτυρεῖσθαι.
- 16 ἀποδείξαι τοίνυν ἡμῶν κελεύοντων ὅστις οἶδε τῶν Εὐκτῆμονος οἰκείων ἢ συνοικήσασαν ἐκείνῳ τινὰ [ἢ τὴν] Καλλίππην <ἢ><sup>3</sup> ἐπιτροπευομένην, καὶ παρὰ τῶν ὄντων <ἡμῖν><sup>4</sup> θεραπόντων τὸν ἔλεγχον ποιεῖσθαι, ἢ εἴ τις τῶν παρ' αὐτοῖς οἰκετῶν φάσκει ταῦτα εἰδέναι, ἡμῖν παραδοῦναι, οὔτε λαβεῖν
- [58] ἠθέλησαν οὐθ' ἡμῖν | παραδοῦναι. καὶ μοι λαβὲ τὴν τ' ἀπόκρισιν αὐτῶν καὶ τὰς ἡμετέρας μαρτυρίας καὶ προκλήσεις.

ΑΠΟΚΡΙΣΙΣ. ΜΑΡΤΥΡΙΑΙ. ΠΡΟΚΛΗΣΕΙΣ<sup>5</sup>

- 17 Οὗτοι μὲν τοίνυν τοιοῦτο πρᾶγμα ἔφυγον· ἐγὼ δ' ὑμῖν ἐπιδείξω καὶ ὅθεν εἰσὶ καὶ οἵτινες, οὗς<sup>6</sup>

<sup>1</sup> οὐτ' Aldus: οὐδ'. <sup>2</sup> προσῆκε Sauppe: προσήκει.

<sup>3</sup> ἢ τὴν del., ἢ add. Reiske.

<sup>4</sup> ἡμῖν add. Thalheim.

<sup>5</sup> μαρτυρίαί. προκλήσεις Reiske: -ρία. -σις.

<sup>6</sup> οὗς Naber: αὐτοὺς.

## ON THE ESTATE OF PHILOCTEMON, 14-17

Euctemon has not yet passed his twentieth year. If these years are deducted, more than thirty years still remain since the Sicilian expedition; so that Callippe, if she were thirty years of age,<sup>a</sup> ought to have been no longer under a guardian, nor unmarried and childless, but long ago married, given in marriage either by her guardian, according to the law, or else by an adjudication of the court. Furthermore, she must necessarily have been known to the relatives and to the slaves of Euctemon if she had really been married to him and lived so long in the house. It is not enough merely to produce such statements at the interrogation, but it must be proved that the alleged events really took place and they must be supported by the testimony of the relatives. When we insisted that they should indicate one of Euctemon's family who knew of anyone of the name of Callippe as having been either married to him or under his guardianship, and that they should make an inquiry from our slaves, or hand over to us for examination any of their slaves who said they had knowledge of these facts, they refused to take any of our slaves for examination or to hand over any of their own to us. Now please read their answer to the interrogation and our depositions and challenges.

### ANSWER TO INTERROGATION, DEPOSITIONS, CHALLENGES

My opponents, then, avoided a mode of proof so vital to their case; but I will show you the origin and position of these men whom my opponents

<sup>a</sup> The speaker rather arbitrarily calculates the date of her marriage by the birth of her elder son.

- γνησίους διεμαρτύρησαν εἶναι καὶ κληρονόμους ζη-  
 τοῦσι καταστῆσαι τῶν Εὐκτῆμονος. ἴσως μὲν ἔστιν  
 ἀηδὲς Φανοστράτῳ, ὦ ἄνδρες, τὰς Εὐκτῆμονος συμ-  
 φορὰς φανερὰς καθεστάναι· ὀλίγα δ' ἀναγκαῖον ῥη-  
 θῆναι, ἵν' ὑμεῖς τὴν ἀλήθειαν εἰδότες ῥᾶον τὰ δί-  
 18 καια ψηφίσῃσθε. Εὐκτῆμων μὲν γὰρ ἐβίω ἔτη ἕξ  
 καὶ ἐνενήκοντα, τούτου δὲ τοῦ χρόνου τὸν μὲν πλεί-  
 στον ἐδόκει εὐδαίμων εἶναι (καὶ γὰρ οὐσία ἦν οὐκ  
 ὀλίγη αὐτῷ καὶ παῖδες καὶ γυνή, καὶ τὰλλ' ἐπιεικῶς  
 εὐτύχει), ἐπὶ γήρως δὲ αὐτῷ συμφορὰ ἐγένετο οὐ  
 μικρά, ἣ ἐκείνου πᾶσαν τὴν οἰκίαν ἐλυμήνατο καὶ  
 χρήματα πολλὰ διώλεσε καὶ αὐτὸν τοῖς οἰκειοτάτοις  
 19 εἰς διαφορὰν κατέστησεν. ὅθεν δὲ καὶ ὅπως ταῦτ'  
 ἐγένετο, ὥς ἂν δύνωμαι διὰ βραχυτάτων δηλώσω.  
 ἀπελευθέρα ἦν αὐτοῦ, ὦ ἄνδρες, ἣ ἐναυκλήρει  
 συνοικίαν ἐν Πειραιεὶ αὐτοῦ καὶ παιδίσκας ἔτρεφε.  
 τούτων μίαν ἐκτήσατο ἥ ὄνομα ἦν Ἀλκή, ἣν καὶ  
 ὑμῶν οἶμαι πολλοὺς εἰδέναι. αὕτη δὲ ἡ Ἀλκή  
 ὠνηθεῖσα πολλὰ μὲν ἔτη καθῆστο ἐν οἰκήματι,  
 ἥδη δὲ πρεσβυτέρα οὖσα ἀπὸ μὲν τοῦ οἰκήματος  
 20 ἀνίσταται. διαιτωμένη δὲ αὐτῇ ἐν τῇ συνοικίᾳ  
 συνῆν ἄνθρωπος ἀπελεύθερος, Δίων ὄνομα αὐτῷ,  
 ἐξ οὗ ἔφη ἐκείνη τούτους γεγονέναι· καὶ ἔθρεψεν  
 αὐτοὺς ὁ Δίων ὥς ὄντας ἑαυτοῦ. χρόνῳ δὲ ὕστερον  
 ὁ μὲν Δίων ζημίαν εἰργασμένος καὶ δείσας ὑπὲρ  
 αὐτοῦ ὑπεχώρησεν εἰς Σικυῶνα· τὴν δ' ἄνθρωπον  
 ταύτην, τὴν Ἀλκὴν, καθίστησιν Εὐκτῆμων ἐπι-  
 μελεῖσθαι τῆς ἐν Κεραμεικῷ συνοικίας, τῆς παρὰ  
 21 τὴν πυλίδαν, οὗ ὁ οἶνος ὦνιος. κατοικισθεῖσα δ'

<sup>a</sup> καθῆστο ἐν οἰκήματι = *in cella meretricia sedebat*, a technical term (see Wyse's note).

<sup>b</sup> The "Potters' Quarter" at Athens, partly inside and

testified to be legitimate and are seeking to establish as heirs of Euctemon's property. It is perhaps painful, gentlemen, to Phanostratus to bring to light the misfortunes of Euctemon; but it is essential that a few facts should be given, so that, knowing the truth, you may more easily give your verdict aright. Euctemon lived for ninety-six years, and for most of this period had the reputation of being a fortunate man; he possessed considerable property and had children and a wife, and in all other respects enjoyed a reasonable degree of prosperity. In his old age, however, a serious misfortune befel him, which brought ruin to his house, caused him great financial loss, and set him at variance with his nearest relatives. The cause and manner of it I will set forth in the fewest possible words. He had a freed-woman, gentlemen, who managed a tenement-house of his at the Peiraeus and kept prostitutes. As one of these she acquired a woman of the name of Alce, whom I think many of you know. This Alce, after her purchase, lived the life of a prostitute <sup>a</sup> for many years but gave it up when she became too old. While she was still living in the tenement-house, she had relations with a freedman whose name was Dion, whom she declared to be the father of these young men; and Dion did, in fact, bring them up as his own children. Some time later Dion, having committed a misdemeanour and being afraid of the consequences, withdrew to Sicyon. The woman Alce was then installed by Euctemon to look after his tenement-house in the Cerameicus,<sup>b</sup> near the postern gate, where wine is sold. Her partly outside the walls near the Dipylon Gate (see Frazer's note on Paus. i. 2. 4).



ἐνταυθοῖ πολλῶν καὶ κακῶν ἥρξεν, ὦ ἄνδρες. φοιτῶν γὰρ ὁ Εὐκτῆμων ἐπὶ τὸ ἐνοίκιον ἐκάστοτε τὰ πολλὰ διέτριβεν ἐν τῇ συνοικίᾳ, ἐνίοτε δὲ καὶ ἐσιτεῖτο μετὰ τῆς ἀνθρώπου,\* καταλιπὼν καὶ τὴν γυναῖκα καὶ τοὺς παῖδας καὶ τὴν οἰκίαν ἣν ᾤκει. χαλεπῶς δὲ φερούσης τῆς γυναικὸς καὶ τῶν υἱῶν οὐχ ὅπως ἐπαύσατο, ἀλλὰ τελευτῶν παντελῶς διητᾶτο ἐκεῖ, καὶ οὕτω διετέθη εἴθ' ὑπὸ φαρμάκων εἴθ' ὑπὸ νόσου εἴθ' ὑπ' ἄλλου τινός, ὥστε ἐπείσθη ὑπ' αὐτῆς τὸν πρεσβύτερον τοῖν παιδῶν εἰσαγαγεῖν εἰς τοὺς φράτορας ἐπὶ τῷ αὐτοῦ ὀνόματι.

22 ἐπειδὴ δὲ οὕθ' ὁ υἱὸς<sup>1</sup> αὐτῷ Φιλοκτῆμων συνεχώρει οὕθ' οἱ φράτορες εἰσεδέξαντο, ἀλλ' ἀπηνέχθη τὸ κούρειον,<sup>2</sup> ὀργιζόμενος ὁ Εὐκτῆμων τῷ υἱεὶ καὶ ἐπηρεάζειν βουλόμενος ἐγγυᾶται γυναῖκα Δημοκράτους τοῦ Ἀφιδναίου<sup>3</sup> ἀδελφῆν, ὥς ἐκ ταύτης παῖδας ἀποφανῶν καὶ εἰσποιήσων εἰς τὸν οἶκον, εἰ

23 μὴ συγχωροίη τοῦτον ἔαν εἰσαχθῆναι. εἰδότες δ' οἱ ἀναγκαῖοι ὅτι ἐξ ἐκείνου μὲν οὐκ ἂν ἔτι γένοιτο παῖδες ταύτην τὴν ἡλικίαν ἔχοντος, φανήσονται δ' ἄλλῳ τινὶ τρόπῳ, καὶ ἐκ τούτων ἔσονται ἔτι μείζους διαφοραί, ἔπειθον, ὦ ἄνδρες, τὸν Φιλοκτῆμονα εἶσαι εἰσαγαγεῖν τοῦτον τὸν παῖδα ἐφ' οἷς ἐζήτει

24 ὁ Εὐκτῆμων, χωρίον ἔν δόντα. καὶ ὁ Φιλοκτῆμων αἰσχυρόμενος μὲν ἐπὶ τῇ τοῦ πατρὸς ἀνοίᾳ, ἀπορῶν δ' ὅ τι χρήσαιτο τῷ παρόντι κακῷ, οὐκ ἀντέλεγεν οὐδέν. ὁμολογηθέντων δὲ τούτων, καὶ εἰσαχθέντος τοῦ παιδὸς ἐπὶ τούτοις, ἀπηλλάγη τῆς

<sup>1</sup> ὁ υἱὸς Bekker: οὗτος.<sup>2</sup> κούρειον Reiske: κούριον.<sup>3</sup> Ἀφιδναίου Stephanus: ἀφνιδαίου.



establishment there, gentlemen, had many evil consequences. Euctemon, going there constantly to collect the rent, used to spend most of his time in the tenement-house, and sometimes took his meals with the woman, leaving his wife and children and his own home. In spite of the protests of his wife and sons, not only did he not cease to go there but eventually lived there entirely, and was reduced to such a condition by drugs or disease or some other cause, that he was persuaded by the woman to introduce the elder of the two boys to the members of his ward under his own name. When, however, his son Philoctemon refused to agree to this, and the members of the ward would not admit the boy, and the victim for the sacrifice of admission was removed from the altar,<sup>a</sup> Euctemon, being enraged against his son and wishing to pay him out, announced his intention of marrying a sister of Democrates of Aphidna and recognizing any children who should be born to her and bringing them into the family, unless he consented to allow Alce's son to be introduced. His relatives, knowing that no more children would be born to him at his time of life but that they would be forthcoming in some other manner, and that, as a result, still more serious quarrels would arise, advised Philoctemon, gentlemen, to allow him to introduce this child on the conditions which he demanded, giving him a single farm. And Philoctemon, ashamed at his father's folly but at a loss how to deal with the embarrassment of the moment, made no objection. An agreement having been thus concluded, and the child having been intro-

<sup>a</sup> Apparently the effect of this action would be to defer the question of admission till a later meeting of the wardsmen.

## ISAEUS

γυναικὸς ὁ Εὐκτῆμων, καὶ ἐπεδείξατο ὅτι οὐ  
 παίδων ἔνεκα ἐγάμει, ἀλλ' ἵνα τοῦτον εἰσαγάγοι.  
 25 τί γὰρ ἔδει αὐτὸν γαμεῖν, ὦ Ἀνδρόκλεις, εἴ περ  
 οἶδε ἦσαν ἑξ αὐτοῦ<sup>1</sup> καὶ γυναικὸς ἀστῆς, ὥς σὺ  
 μεμαρτύρηκας; τίς γὰρ ἂν γνησίους ὄντας οἷός τε  
 ἦν κωλύσαι εἰσαγαγεῖν; ἢ διὰ τί ἐπὶ ῥητοῖς αὐτὸν  
 εἰσήγαγε, τοῦ νόμου κελεύοντος ἅπαντας τοὺς  
 26 γνησίους ἰσομοίρους εἶναι τῶν πατρῶων; ἢ διὰ  
 τί τὸν μὲν πρεσβύτερον τοῖν παίδοιν ἐπὶ ῥητοῖς  
 εἰσήγαγε, τοῦ δὲ νεωτέρου ἤδη γεγονότος οὐδὲ  
 [59] λόγον ἐποιεῖτο ζῶντος | Φιλοκτῆμονος οὔτε πρὸς  
 αὐτὸν ἐκείνον οὔτε πρὸς τοὺς οἰκείους; οὓς σὺ  
 νῦν διαρρήδην μεμαρτύρηκας γνησίους εἶναι καὶ  
 κληρονόμους τῶν Εὐκτῆμονος. ταῦτα τοίνυν ὥς  
 ἀληθῆ λέγω, ἀναγίγνωσκε τὰς μαρτυρίας.

### ΜΑΡΤΥΡΙΑΙ

27 Μετὰ ταῦτα τοίνυν ὁ Φιλοκτῆμων τριηραρχῶν  
 περὶ Χίον ἀποθνήσκει ὑπὸ τῶν πολεμίων· ὁ δ' Εὐ-  
 κτῆμων ὕστερον χρόνῳ πρὸς τοὺς κηδεστὰς εἶπεν  
 ὅτι βούλοιο τὰ πρὸς τὸν νόον οἱ πεπραγμένα  
 γράψας καταθέσθαι. καὶ ὁ μὲν Φανόστρατος ἐκ-  
 πλεῖν ἔμελλε τριηραρχῶν μετὰ Τιμοθέου, καὶ ἡ  
 ναὺς αὐτῷ ἐξώρμει Μουνυχίασι,<sup>2</sup> καὶ ὁ κηδεστῆς  
 Χαιρέας παρὼν συναπέστειλλεν αὐτόν· ὁ δ' Εὐ-

<sup>1</sup> αὐτοῦ Bekker: ἀστοῦ.

<sup>2</sup> Μουνυχίασι Bekker: μουνυχιάει.

<sup>a</sup> See Introduction, p. 197.

<sup>b</sup> This expedition under Timotheus probably took place  
 in 375 or 373 B.C.

duced on these terms, Euctemon gave up his project of marriage, proving thereby that the object of his threatened marriage was not to procure children but to obtain the introduction of this child into the ward. For what need had he to marry, Androcles, if these children had been born to him from a marriage with an Athenian citizen, as you have affirmed them to have been in your evidence? If they were legitimate, who could prevent him from introducing them? And why did he introduce them on special terms, when the law ordains that all the legitimate sons have an equal right to share in their father's property? And why did he introduce the elder child on special terms, but said not a word about the younger child during the lifetime of Philoctemon either to Philoctemon or to his other relatives? Yet you have explicitly borne witness that they are legitimate and heirs to the property of Euctemon. In proof of the truth of these assertions, read the depositions.

#### DEPOSITIONS

It was after this, then, that Philoctemon died by the enemy's hands while commanding a trireme off Chios.<sup>a</sup> Some time later Euctemon informed his sons-in-law that he wished to make a written record of his arrangement with his son and place it in safe keeping. Phanostratus was on the point of setting out with Timotheus<sup>b</sup> in command of a trireme, and his ship lying at anchor at Munychia,<sup>c</sup> and his brother-in-law Chaereas was there bidding him farewell. Euctemon, taking certain persons with

<sup>a</sup> A small harbour on the east of the Peiraic peninsula in which part of the Athenian navy was docked.

- κτῆμων παραλαβών τινας ἦκεν οὐ ἐξώρμει ἢ ναῦς, καὶ γράψας διαθήκην, ἐφ' οἷς εἰσήγαγε τὸν παῖδα, κατατίθεται μετὰ τούτων παρὰ Πυθοδώρῳ Κηφισιῇ, προσήκοντι αὐτῷ. καὶ ὅτι μὲν, ὦ ἄνδρες, οὐχ ὡς περὶ γνησίων ἔπραττεν Εὐκτῆμων, ὁ<sup>1</sup> Ἀνδροκλῆς μεμαρτύρηκε, καὶ αὐτὸ τοῦτο ἱκανὸν τεκμήριον· τοῖς γὰρ φύσει ὑέσιν αὐτοῦ οὐδεὶς οὐδενός<sup>2</sup> ἐν διαθήκῃ γράφει δόσιν οὐδεμίαν, διότι ὁ νόμος αὐτὸς ἀποδίδωσι τῷ ὑεὶ τὰ τοῦ πατρὸς καὶ οὐδὲ διαθέσθαι ἐὰ ὅτῳ ἂν ὦσι παῖδες γνήσιοι.
- 29 Κειμένου δὲ τοῦ γραμματείου σχεδὸν δύο ἔτη καὶ τοῦ Χαιρέου τετελευτηκότος, ὑποπεπτωκότες οἷδε τῇ ἀνθρώπῳ, καὶ ὁρῶντες ἀπολλύμενοι τὸν οἶκον καὶ τὸ γῆρας καὶ τὴν ἄνοιαν τοῦ Εὐκτῆμονος, ὅτι
- 30 εἶη αὐτοῖς ἱκανὴ ἀφορμή, συνεπιτίθενται. καὶ πρῶτον μὲν πείθουσι τὸν Εὐκτῆμονα τὴν μὲν διαθήκην ἀνλεῖν ὡς οὐ χρησίμην οὔσαν τοῖς παισί· τῆς γὰρ φανεράς οὐσίας οὐδένα κύριον ἔσσεσθαι τελευτήσαντος Εὐκτῆμονος ἄλλον ἢ τὰς θυγατέρας καὶ τοὺς ἐκ τούτων γεγονότας· εἰ δὲ ἀποδόμενός τι τῶν ὄντων ἀργύριον καταλίποι,
- 31 τοῦτο βεβαίως ἔξειν αὐτούς. ἀκούσας δ' ὁ Εὐκτῆμων εὐθὺς ἀπῆγει τὸν Πυθόδωρον τὸ γραμματεῖον, καὶ προσεκαλέσατο εἰς ἐμφανῶν καταστασιν. καταστάντος δὲ ἐκείνου πρὸς τὸν ἄρχοντα, ἔλεγεν ὅτι βούλοιτ' ἀνελεσθαι τὴν διαθήκην.
- 32 ἐπειδὴ δ' ὁ Πυθόδωρος ἐκείνῳ μὲν καὶ τῷ Φανοστράτῳ παρόντι ὡμολόγει ἀναιρεῖν, τοῦ δὲ Χαιρέου

<sup>1</sup> δ Bekker: ὁ.<sup>2</sup> οὐδενὸς Dobree: οὐδενί.

him, came to where the ship was anchored, and having drawn up a document detailing the conditions under which he introduced the child, deposited it in the presence of those men with his relative Pythodorus of Cephisia. The very fact that he acted thus is a sufficient proof, gentlemen, that Euctemon was not dealing with them as legitimate children, as Androcles has declared in his evidence ; for no one ever makes a gift by will of anything to the sons of his own body, because the law of itself gives his father's estate to the son and does not even allow anyone who has legitimate children to dispose of his property.

When the document had remained deposited for almost two years and Chaereas had died, my opponents, having come under the influence of Alce and seeing that the property was going to ruin and that the old age and imbecility of Euctemon gave them an excellent opportunity, made a combined plan of attack. They first urged Euctemon to cancel the will on the ground that it was not to the boys' advantage ; for no one would have any claim to the real estate on Euctemon's death except the daughters and their issue ; whereas, if he sold part of the property and left it in cash, they would get secure possession of it. Euctemon listened to them and immediately demanded the document back from Pythodorus and served upon him a summons to produce it. When Pythodorus appeared before the archon, Euctemon stated that he wished to annul the will. Pythodorus was prepared to agree with Euctemon and Phanostratus, who was present, that the document should be destroyed ; but, as Chaereas, who had been a party to its deposition,

τοῦ συγκαταθεμένου θυγάτηρ ἦν μία, ἧς ἐπειδὴ κύριος κατασταίῃ, τότε ἡξίου ἀνελεῖν, καὶ ὁ ἄρχων οὕτως ἐγίγνωσκε, διομολογησάμενος ὁ Εὐκτήμων ἐναντίον τοῦ ἄρχοντος καὶ τῶν παρέδρων καὶ ποιησάμενος πολλοὺς μάρτυρας ὥς οὐκέτ' αὐτῷ  
 33 κέοιτο ἢ διαθήκη, ὥχετο ἀπιών. καὶ ἐν πάνν ὀλίγῳ χρόνῳ, οὐπὲρ ἕνεκα οὗτοι λῦσαι αὐτὸν ἔπεισαν, ἀποδίδοται<sup>1</sup> ἀγρὸν μὲν Ἀθμονοῖ πέντε καὶ ἑβδομήκοντα μνῶν Ἀντιφάνει, τὸ δ' ἐν Σηραγ- γίῳ βαλανεῖον τρισχιλίων Ἀριστολόχῳ· οἰκίαν δὲ ἐν ἄστει τεττάρων καὶ τεσσαράκοντα μνῶν ὑποκειμέ- νην ἀπέλυσε τῷ ἱεροφάντῃ. ἔτι δὲ αἶγας ἀπέδοτο σὺν τῷ αἰπόλῳ τριῶν καὶ δέκα μνῶν, καὶ ζεύγη δύο ὀρικά, τὸ μὲν ὀκτὼ μνῶν τὸ δὲ πεντήκοντα καὶ πεντακοσίων δραχμῶν, καὶ δημιουργοὺς ὅσοι  
 34 ἦσαν αὐτῷ. σύμπαντα δὲ πλείονος ἢ τριῶν ταλάν- των, ἃ ἐπράθη διὰ ταχέων πάνν τελευτήσαντος Φιλοκτήμονος. καὶ ταῦθ' ὅτι ἀληθῇ λέγω, καθ' ἕκαστον ὑμῖν τῶν εἰρημένων πρῶτον καλῶ τοὺς μάρτυρας.

## &lt;ΜΑΡΤΥΡΕΣ&gt;

35 Ταῦτα μὲν δὴ τοῦτον τὸν τρόπον εἶχε· περὶ δὲ τῶν ὑπολοίπων εὐθὺς ἐπεβούλευον, καὶ πάντων δεινότατον πρᾶγμα κατεσκεύασαν, ᾧ ἄξιόν ἐστι προσέχειν τὸν νοῦν. ὁρῶντες γὰρ τὸν Εὐκτήμονα

<sup>1</sup> ἀποδίδοται Stephanus: -ονται.

<sup>a</sup> The site of this place was near the modern *Marusi*, about seven miles north-east of Athens (see Frazer on Paus. i. 31. 4).

<sup>b</sup> The site of these baths has been discovered below the eastern end of the hill on Munychia on the Peiraic peninsula.

had left an only daughter, he suggested that it should be destroyed only in the presence of her legal representative, and the archon decided in favour of this course. Euctemon, after agreeing to this in the presence of the archon and his assessors, called many persons to witness that the will deposited by him no longer existed and then went his way. In a very short time—and this was the object of their advice to Euctemon to annul the will—he sold a farm at Athmonon <sup>a</sup> to Antiphanes for seventy-five minas and the bath-house at Serangion <sup>b</sup> to Aristolochus for 3000 drachmas; and he realized a mortgage of forty-five minas on a house in Athens from the hierophant.<sup>c</sup> Further, he sold some goats with their goat-herd for thirteen minas, and two pairs of mules, one for eight minas and the other for five hundred and fifty drachmas, and all the slaves he had that were craftsmen. In all, the value of the property which he hurriedly sold after Philoctemon's death, was more than three talents. And to prove that I am speaking the truth, I will first call witnesses in support of each of my statements.

## WITNESSES

So much for these transactions. They then immediately began scheming to obtain the rest of the property and planned the most outrageous plot of all, which merits your careful attention. Seeing

They consisted of a subterranean chamber with openings in different directions through the cliff (see Frazer's *Paus.* v. p. 477).

<sup>c</sup> The official who displayed the sacred emblems at the Eleusinian mysteries; he was a member of the house of the Eumolpidae.



- κομιδῇ ἀπειρηκότα ὑπὸ γήρως καὶ οὐδ' <ἐκ><sup>1</sup> τῆς κλίνης ἀνίστασθαι δυνάμενον, ἐσκόπουν ὅπως καὶ τελευτήσαντος ἐκείνου δι' αὐτῶν<sup>2</sup> ἔσοιτο ἡ οὐσία.
- 36 καὶ τί ποιοῦσιν; ἀπογράφουσι τῷ παῖδε τούτῳ πρὸς τὸν ἄρχοντα ὡς εἰσποιήτω τοῖς τοῦ Εὐκτήμονος ὑέσι τοῖς τετελευτηκόσιν, ἐπιγράψαντες σφᾶς αὐτοὺς ἐπιτρόπους, καὶ μισθοῦν ἐκέλευον τὸν ἄρχοντα τοὺς οἴκους ὡς ὀρφανῶν ὄντων, ὅπως ἐπὶ τοῖς τούτων ὀνόμασι τὰ μὲν μισθωθείη τῆς οὐσίας, τὰ δὲ ἀποτιμήματα κατασταθείη καὶ ὄροι
- [60] | τεθείεν ζῶντος ἔτι τοῦ Εὐκτήμονος, μισθωταὶ δὲ αὐτοὶ<sup>3</sup> γενόμενοι τὰς προσόδους λαμβάνοιεν.
- 37 καὶ ἐπειδὴ πρῶτον τὰ δικαστήρια ἐπληρώθη, ὁ μὲν ἄρχων προεκήρυττεν, οἱ δ' ἐμισθοῦντο. παραγενόμενοι δέ τινες ἐξαγγέλλουσι τοῖς οἰκείοις τὴν ἐπιβουλήν, καὶ ἐλθόντες ἐδήλωσαν τὸ πρᾶγμα τοῖς δικασταῖς, καὶ οὕτως ἀπεχειροτόνησαν οἱ δικασταὶ μὴ μισθοῦν τοὺς οἴκους· εἰ δ' ἔλαθεν, ἀπωλώλει<sup>4</sup> ἂν ἅπανα ἡ οὐσία. καὶ μοι κάλει τοὺς παραγενομένους μάρτυρας.

ΜΑΡΤΥΡΕΣ

- 38 Πρὶν μὲν τοίνυν τούτους γνωρίσαι τὴν ἀνθρωπον καὶ μετ' ἐκείνης ἐπιβουλεῦσαι Εὐκτήμονι, οὕτω πολλὴν οὐσίαν ἐκέκτητο Εὐκτήμων μετὰ τοῦ ὑέος Φιλοκτήμονος, ὥστε ἅμα τὰ τε<sup>5</sup> μέγιστα ὑμῖν λητουργεῖν ἀμφοτέρους τῶν τε ἀρχαίων μηδὲν πραθῆναι τῶν τε προσόδων περιποιεῖν, ὥστε αἰεῖ

<sup>1</sup> οὐδ' ἐκ Dobree: οὐδὲ.

<sup>2</sup> αὐτῶν Baiter-Sauppe: αὐτῶν.

<sup>3</sup> δὲ αὐτοὶ Meutzner: δι' αὐτοῦ.

<sup>4</sup> ἀπωλώλει Scheibe: ἀπο-. <sup>5</sup> τὰ τε Fuhr: τε τὰ.



that Euctemon was completely incapacitated by old age and could not even leave his bed, they began to look about for a means whereby all his property should be under their control after his death. And what did they do? They inscribed these two boys before the archon as adopted children of the sons of Euctemon who had died,<sup>a</sup> inscribing themselves as guardians, and requested the archon to grant a lease of the house-property as being the property of orphans, in order that part of the property might be leased and part might be used as a security, and mortgage notices adfixed to it in the children's names during the lifetime of Euctemon, and they themselves might become lessees and receive the income. On the first day that the courts met, the archon put the lease up for auction and they offered to lease the property. Certain persons, however, who were present, denounced the plot to the relatives, and they came and informed the judges of the real state of affairs. The result was that the judges voted against allowing the houses to be leased. If the plot had not been detected, the whole property would have been lost. Please call as witnesses those who were present.

## WITNESSES

Before my opponents had made the woman's acquaintance and plotted with her against Euctemon, he and his son Philoctemon possessed so large a fortune that both of them were able to undertake the most costly public offices without realizing any of their capital, and at the same time to save out of their income, so that they continually grew richer.

<sup>a</sup> Philoctemon and Ergamenes (*cf.* § 44).

τι προσκτᾶσθαι· ἐπειδὴ δ' ἐτελεύτησε Φιλοκτῆμων,  
 οὕτω διετέθη ἡ οὐσία, ὥστε τῶν ἀρχαίων μηδὲ τὰ  
 ἡμίσεα εἶναι λοιπὰ καὶ τὰς προσόδους ἀπάσας  
 39 ἡφανίσθαι. καὶ οὐδὲ ταῦτα ἐξήρκεσεν αὐτοῖς δια-  
 φορῆσαι, ὦ ἄνδρες, ἀλλ' ἐπειδὴ καὶ ἐτελεύτησεν  
 ὁ Εὐκτῆμων, εἰς τοῦτο ἦλθον τόλμης ὥστ' ἐκείνου  
 κειμένου ἔνδον τοὺς μὲν οἰκέτας ἐφύλαττον, ὅπως  
 μηδεὶς ἐξαγγείλειε μήτε τοῖν<sup>1</sup> θυγατέροιν μήτε τῇ  
 γυναικὶ αὐτοῦ μήτε τῶν οἰκείων μηδενί, τὰ δὲ  
 χρήματα ἔνδοθεν ἐξεφορήσαντο μετὰ τῆς ἀνθρώπου  
 εἰς τὴν ὁμότοιχον οἰκίαν, ἣν ᾧκει μεμισθωμένος  
 40 εἰς τούτων, Ἀντίδωρος ἐκεῖνος. καὶ οὐδ' ἐπειδὴ  
 ἐτέρων πυθόμεναι ἦλθον αἱ θυγατέρες αὐτοῦ καὶ  
 ἡ γυνή, οὐδὲ τότε εἶων<sup>2</sup> εἰσιέναι, ἀλλ' ἀπέκλεισαν  
 τῇ θύρᾳ,<sup>3</sup> φάσκοντες οὐ προσήκειν αὐταῖς θάπτειν  
 Εὐκτῆμονα· καὶ οὐδ' εἰσελθεῖν ἐδύναντο, εἰ μὴ  
 41 μόλις καὶ περὶ ἡλίου δυσμάς. εἰσελθοῦσαι δὲ  
 κατέλαβον ἐκεῖνον μὲν ἔνδον κείμενον δευτεραῖον,  
 ὡς ἔφασαν οἱ οἰκέται, τὰ δ' ἐκ τῆς οἰκίας ἅπαντα  
 ἐκπεφορημένα ὑπὸ τούτων. αἱ μὲν οὖν γυναῖκες,  
 οἶον εἰκός, περὶ τὸν τετελευτηκότα ἦσαν· οὗτοι  
 δὲ τοῖς ἀκολουθήσασι παραχρῆμα ἐπεδείκνυσαν τὰ  
 ἔνδον ὡς εἶχε, καὶ τοὺς οἰκέτας πρῶτον ἡρώτων  
 ἐναντίον τούτων ὅποι<sup>4</sup> τετραμμένα εἶη τὰ χρήματα.  
 42 λεγόντων δὲ ἐκείνων ὅτι οὗτοι ἐξηνηνοχότες εἶεν  
 εἰς τὴν πλησίον οἰκίαν, καὶ ἀξιούντων παραχρῆμα  
 τῶνδε φωρᾶν<sup>5</sup> κατὰ τὸν νόμον καὶ τοὺς οἰκέτας  
 ἐξαιτούντων τοὺς ἐκφορήσαντας, οὐκ ἠθέλησαν

<sup>1</sup> τοῖν M, Naber: ταῖν.

<sup>2</sup> εἶων Hirschig: ἡφ(ε)ίων, ε eraso.

<sup>3</sup> τῇ θύρᾳ Dobree: τὴν θύραν.

<sup>4</sup> ὅποι Aldus: ὅπῃ (sic).

<sup>5</sup> τῶνδε φωρᾶν Scaliger: τῶν δ' ἐφορᾶν.

After the death of Philoctemon, on the other hand, the property was reduced to such a condition that less than half the capital remains and all the revenues have disappeared. And they were not even content, gentlemen, with this misappropriation; but, when Euctemon died, they had the impudence, while he was lying dead in the house, to shut up the slaves, so that none of them might take the news to his two daughters or to his wife or to any of his relatives. Meanwhile, with the aid of the woman they conveyed the furniture from within to the adjoining house, which was leased and occupied by one of their gang, the infamous Antidorus. When Euctemon's daughters and wife arrived, having learnt the news from others, even then they refused them admittance and shut the door in their faces, declaring that it was not their business to bury Euctemon. They only obtained admittance with difficulty about sunset. When they entered, they found that he had been dead in the house for two days, as the slaves declared, and that everything in the house had been carried off by these people. While the women, as was right, were attending to the deceased, my clients here immediately called the attention of those who had accompanied them to the state of affairs in the house, and began by asking the slaves in their presence to what place the furniture had been removed. When they replied that our opponents had conveyed it away to the next house, and my clients immediately claimed the right to search the house in the proper legal manner, and requested that the slaves who had removed it should be produced, our opponents refused to accede to any of

τῶν δικαίων οὐδὲν ποιῆσαι. καὶ ὅτι ἀληθῆ λέγω, λαβὲ ταυτὶ καὶ ἀνάγνωθι.

<ΜΑΡΤΥΡΙΑΙ>

- 43 Τοσαῦτα μὲν τοίνυν χρήματα ἐκ τῆς οἰκίας ἐκφορήσαντες, τοσαύτης δ' οὐσίας πεπραμένης τὴν τιμὴν ἔχοντες, ἔτι δὲ τὰς προσόδους τὰς ἐν ἐκείνῳ τῷ χρόνῳ γενομένας διαφορήσαντες, οἴονται καὶ τῶν λοιπῶν κύριοι γενήσεσθαι· καὶ εἰς τοῦτο ἀναιδείας ἤκουσιν, ὥστ' εὐθυδικία μὲν οὐκ ἐτόλμησαν εἰσελθεῖν, ἀλλὰ διεμαρτύρουν ὡς ὑπὲρ γνησίων ἅμα μὲν τὰ ψευδῆ ἅμα δὲ τὰναντία οἷς
- 44 αὐτοὶ ἔπραξαν· οἷτινες πρὸς μὲν τὸν ἄρχοντα ἀπέγραψαν αὐτοὺς ὡς ὄντας τὸν μὲν Φιλοκτήμονος τὸν δ' Ἐργαμένους, νῦν δὲ διαμεμαρτυρήκασιν Εὐκτήμονος εἶναι. καίτοι οὐδ' εἰ γνήσιοι ἦσαν, εἰσποιήτοι δέ, ὡς οὗτοι ἔφασαν, οὐδ' οὕτω προσήκει<sup>1</sup> αὐτοὺς Εὐκτήμονος εἶναι· ὁ γὰρ νόμος οὐκ ἐᾷ ἐπανιέναι, ἐὰν μὴ ὑὸν καταλίπη γνήσιον. ὥστε καὶ ἐξ ὧν αὐτοὶ ἔπραξαν ἀνάγκη τὴν μαρτυ-  
45 ρίαν ψευδῆ εἶναι. καὶ εἰ μὲν τότε διεπράξαντο<sup>2</sup> μισθωθῆναι τοὺς οἴκους, οὐκ ἂν ἔτι ἦν τοῖσδε ἀμφισβητῆσαι· νῦν δὲ ἀποχειροτονησάντων τῶν δικαστῶν ὡς οὐδὲν αὐτοῖς προσῆκον,<sup>3</sup> οὐδὲ ἀμφισβητῆσαι τετολμήκασιν, ἀλλὰ πρὸς ὑπερβολὴν ἀναισχυντίας προσμεμαρτυρήκασιν τοὺς εἶναι κληρονόμους, οὓς ὑμεῖς ἀπεχειροτονήσατε.
- 46 Ἔτι δὲ καὶ τοῦ μάρτυρος αὐτοῦ σκέψασθε τὴν

<sup>1</sup> προσήκει scripsi: -ῆκεν.

<sup>2</sup> διεπράξαντο Reiske: -ατο.

<sup>3</sup> προσῆκον Dobree: -ῆκεν.

<sup>a</sup> i.e., by Philoctemon and Ergamenes.

their just demands. And to prove that I am speaking the truth, take and read these documents.

## DEPOSITIONS

Having removed all this furniture from the house, and sold so much property and kept the proceeds, and having further made away with the revenue which accrued during that period, they yet expect to obtain possession of what remains; and their impudence is such that, not daring to bring a direct action, they lodged a protestation—as though it were a question of legitimate children—which is at once false and in contradiction to their own previous action. For, whereas they had inscribed the children before the archon, one as the son of Philoctemon and the other as the son of Ergamenes, they have now stated in their protestation that they are the sons of Euctemon. Yet if they were Euctemon's legitimate sons and had afterwards been adopted,<sup>a</sup> as our opponent states, even so they cannot be described as the sons of Euctemon: for the law does not allow the return of an adopted son to his original family, unless he leaves a legitimate son in the family which he quits. So that in the light of their own acts their evidence is necessarily untrue. If our opponents had then so contrived that the houses were leased, my clients would no longer have been able to claim them; but, as it is, since the judges decided against them as having no right, they have not dared to put in a claim, but, to put the finishing touch to their impudence, they have submitted additional evidence to the effect that these young men, whom you excluded by your verdict, are heirs.

Further, mark the effrontery and impudence of

τόλμαν καὶ ἀναΐδειαν, ὅστις εἴληχε μὲν αὐτῷ τῆς  
 θυγατρὸς τῆς Εὐκτῆμονος ὡς οὔσης ἐπικλήρου,  
 καὶ αὐτοῦ τοῦ κλήρου τοῦ Εὐκτῆμονος πέμπτου |  
 [61] μέρους ὡς ἐπιδίκου ὄντος, μεμαρτύρηκε δ' Εὐ-  
 κτῆμονος ὕδν εἶναι γνήσιον. καίτοι πῶς οὗτος  
 οὐ σαφῶς ἐξελέγχει αὐτὸς αὐτὸν τὰ ψευδῇ μεμαρ-  
 τυρηκότα; οὐ γὰρ δήπου γνησίου ὄντος ὕέος  
 Εὐκτῆμονι ἐπικλήρος ἂν ᾗν ἡ θυγάτηρ αὐτοῦ,  
 οὐδὲ ὁ κλήρος ἐπιδίκος. ὡς τοίνυν ἔλαχε ταύτας  
 τὰς λήξεις, ἀναγνώσεται ὑμῖν τὰς μαρτυρίας.

<ΜΑΡΤΥΡΙΑΙ>

- 47 Τὸυναντίον τοίνυν συμβέβηκεν ἡ ὡς ὁ νόμος γέ-  
 γραπται· ἐκεῖ μὲν γάρ ἐστι νόθῳ μηδὲ νόθῃ <μη><sup>1</sup>  
 εἶναι ἀγχιστεῖαν μήθ' ἱερῶν μήθ' ὀσίων ἀπ' Εὐ-  
 κλείδου ἄρχοντος, Ἀνδροκλῆς<sup>2</sup> δὲ καὶ Ἀντίδωρος  
 οἴονται δεῖν, ἀφελόμενοι τὰς Εὐκτῆμονος θυγα-  
 τέρας τὰς γνησίας καὶ τοὺς ἐκ τούτων γεγονότας,  
 τόν τε Εὐκτῆμονος οἶκον καὶ τὸν Φιλοκτῆμονος  
 48 ἔχειν. καὶ ἡ διαφθείρασα τὴν Εὐκτῆμονος γνώμην  
 καὶ πολλῶν ἐγκρατὴς γενομένη οὕτως ὑβρίζει  
 σφόδρα πιστεύουσα τούτοις, ὥστε οὐ μόνον τῶν  
 Εὐκτῆμονος οἰκείων καταφρονεῖ, ἀλλὰ καὶ τῆς  
 πόλεως ἀπάσης. ἀκούσαντες δὲ ἐν μόνον σημεῖον  
 ῥαδίως γνώσεσθε τὴν ἐκείνης παρανομίαν. καί  
 μοι λαβὲ τοῦτον τὸν νόμον.

<ΝΟΜΟΣ>

<sup>1</sup> μη add. Sauppe.

<sup>2</sup> Ἀνδροκλῆς Schoemann: -κλείδης.

<sup>a</sup> Namely, the widow of Chaeres, cf. § 51.

<sup>b</sup> The words πέμπτου μέρους are certainly corrupt: there is no reason in law why a fifth part should have been claimed. No satisfactory emendation has been proposed.

the witness himself, who has claimed for himself Euctemon's daughter<sup>a</sup> as being an heiress and a fifth part<sup>b</sup> of Euctemon's estate as being adjudicable, while he has given evidence that Euctemon has a legitimate son. In doing so does he not clearly convict himself of having given false evidence? For obviously, if Euctemon had a legitimate son, his daughter could not be heiress or the estate adjudicable. To prove, then, that he made these claims, the clerk shall read you the depositions.

## DEPOSITIONS

Thus the contrary has been done of that which the law has prescribed; for according to the law no male or female bastard has any right, based on kinship, to participate in the cults or property of a family since the archonship of Eucleides<sup>c</sup>; yet Androcles and Antidorus consider themselves entitled to rob the legitimate daughters of Euctemon and their issue, and to possess the property both of Euctemon and of Philoctemon. And the woman who destroyed Euctemon's reason and laid hold of so much property is so insolent, that relying on the help of our opponents, she shows her contempt not only for the members of Euctemon's family but for the whole city. When you have heard a single instance, you will easily realize the lawlessness of her conduct. Please take and read this law.

LAW<sup>d</sup>

<sup>c</sup> 403-402 B.C.

<sup>d</sup> The law here cited must have been that which excluded slaves and women of immoral life from participating in the festival of the Thesmophoria celebrated in honour of Demeter and Persephone (*cf.* iii. 80).

- 49 Ταυτὶ τὰ γράμματα, ὦ ἄνδρες, ὑμεῖς οὕτω σεμνὰ καὶ εὐσεβῇ ἐνομοθετήσατε, περὶ πολλοῦ ποιούμενοι καὶ πρὸς ταύτας<sup>1</sup> καὶ πρὸς τοὺς ἄλλους θεοὺς εὐσεβεῖν· ἡ δὲ τούτων μήτηρ, οὕτως ὁμο-  
 λογουμένως<sup>2</sup> οὔσα δούλη καὶ ἅπαντα τὸν χρόνον  
 50 αἰσchrῶς βιοῦσα, ἣν οὐτε<sup>3</sup> παρελθεῖν εἴσω τοῦ ἱεροῦ ἔδει οὐτ'<sup>4</sup> ἰδεῖν τῶν ἔνδον οὐδέν, οὔσης τῆς θυσίας ταύταις ταῖς θεαῖς ἐτόλμησε συμπέμψαι τὴν πομπὴν καὶ εἰσελθεῖν εἰς τὸ ἱερὸν καὶ ἰδεῖν ἃ οὐκ ἐξῆν<sup>5</sup> αὐτῇ. ὥς δὲ ἀληθῇ λέγω, ἐκ τῶν ψηφισμάτων γνώσεσθε ἃ ἐψηφίσατο ἡ βουλὴ περὶ αὐτῆς. λαβὲ τὸ ψήφισμα.

ΨΗΦΙΣΜΑ

- 51 Ἐνθυμείσθαι τοίνυν χρή, ὦ ἄνδρες, πότερον δεῖ τὸν ἐκ ταύτης τῶν Φιλοκτήμονος εἶναι κληρονόμον καὶ ἐπὶ τὰ μνήματα ἰέναι χεόμενον καὶ ἐναγιούντα, ἢ τὸν ἐκ τῆς ἀδελφῆς τοῦτον, ὃν ὑὸν αὐτὸς ἐποίησατο· καὶ πότερον δεῖ τὴν ἀδελφὴν Φιλοκτήμονος, ἢ Χαιρέα συνώκησε, νῦν δὲ χηρεύει, ἐπὶ τούτοις γενέσθαι ἢ ἐκδοῦναι ὅτῳ βούλονται ἢ εἰάν καταγῇράσκειν, ἢ γνησίαν οὔσαν ὑφ' ὑμῶν ἐπι-  
 52 δικασθεῖσαν συνοικεῖν ὅτῳ ἂν ὑμῖν δοκῇ. ἡ γὰρ ψῆφός ἐστι περὶ τούτων νυνί. τουτὶ γὰρ αὐτοῖς ἡ διαμαρτυρία δύναται, ἢν' ὁ κίνδυνος τοῖσδε μὲν ἢ περὶ πάντων,<sup>6</sup> οὔτοι δὲ καὶ νῦν διαμάρτωσι τοῦ ἀγῶνος, δόξῃ δὲ ὁ κλῆρος ἐπίδικος εἶναι, ἀντιγραφάμενοι δις περὶ τῶν αὐτῶν ἀγωνίζωνται.

<sup>1</sup> ταύτας Reiske: ταῦτα.

<sup>2</sup> ὁμολογουμένως Dobree: -η.

<sup>3</sup> οὐτε Bekker: οὐδέ.

<sup>4</sup> οὐτ' Bekker: οὐδ'.

<sup>5</sup> ἐξῆν Bekker: ἐξόν.

<sup>6</sup> πάντων Naber: τούτων.



Such are the solemn and pious terms in which you gave legal expression to the importance which you attach to piety towards these goddesses and all the other deities. Yet the mother of these young men, being admittedly a slave, and having always lived a scandalous life, who ought never to have entered the temple and seen any of the rites performed there, had the effrontery to join in the procession when a sacrifice was being made in honour of these goddesses and to enter the temple and see what she had no right to see. That I am speaking the truth you will learn from the decrees which the Council passed concerning her. Take this decree.

#### DECREE

You have, therefore, gentlemen, to consider whether this woman's son ought to be heir to Philoctemon's property and go to the family tombs to offer libations and sacrifices, or my client, Philoctemon's sister's son, whom he himself adopted; and whether Philoctemon's sister, formerly the wife of Chaereas and now a widow, ought to pass into the power of our opponents and be married to anyone they choose or else be allowed to grow old in widowhood, or whether, as a legitimate daughter, she ought to be subject to your decision as to whom she ought to marry. These are the points which you have now to decide by your verdict; for the purpose of their protestation is to throw all the risk upon my clients, and that our opponents, even if they lose their case on this occasion and the estate is held to be adjudicable, may, by bringing forward a competing claim, fight a second action about the

- καίτοι εἰ μὲν διέθετο Φιλοκτήμων μὴ ἔξὸν αὐτῷ, τοῦτ' αὐτὸ ἐχρῆν διαμαρτυρεῖν, ὥς οὐ κύριος ἦν ὑὸν τόνδε ποιήσασθαι· εἰ δ' ἔξεστι μὲν διαθέσθαι, ἀμφισβητεῖ δὲ ὥς οὐ δόντος οὐδὲ διαθεμένου, μὴ
- 53 διαμαρτυρία κωλύειν ἄλλ' εὐθυδικία εἰσιέναι. νῦν δὲ πῶς ἂν [τις] περιφανέστερον ἐξελεγχθεῖη τὰ ψευδῇ μεμαρτυρηκῶς ἢ εἴ τις αὐτὸν ἔροιτο “ Ἀνδρόκλεις, πῶς οἶσθα Φιλοκτήμον<sup>1</sup> ὅτι οὔτε διέθετο οὔτε ὑὸν Χαιρέστρατον ἐποίησατο; ” οἷς μὲν γάρ τις παρεγένετο, δίκαιον, ὦ ἄνδρες, μαρτυρεῖν, οἷς δὲ μὴ παρεγένετο ἄλλ' ἤκουσέ τινος, ἀκοὴν μαρτυ-
- 54 ρεῖν· σὺ δ' οὐ παραγενόμενος διαρρήδην μεμαρτύρηκας ὥς οὐ διέθετο Φιλοκτήμων, ἄλλ' ἅπαις ἐτελεύτησε. καίτοι πῶς οἶόν τε εἰδέναι, ὦ ἄνδρες; ὅμοιον γὰρ ὥσπερ ἂν εἰ φαίη εἰδέναι, καὶ μὴ παραγενόμενος, ὅσα ὑμεῖς πάντες πράττετε. οὐ γὰρ δὴ τοῦτό γε ἐρεῖ, καίπερ ἀναίσχυντος ὢν, ὥς ἅπασι παρεγένετο καὶ πάντ' οἶδεν ὅσα Φιλοκτήμων
- 55 ἐν τῷ βίῳ διεπράξατο. πάντων γὰρ αὐτὸν ἐκεῖνος ἔχθιστον ἐνόμιζε διὰ <τε><sup>2</sup> τὴν ἄλλην πονηρίαν, καὶ διότι τῶν συγγενῶν μόνος μετὰ τῆς Ἀλκῆς ἐκείνης τούτῳ καὶ τοῖς ἄλλοις συνεπιβουλεύσας τοῖς τοῦ Εὐκτήμονος χρήμασι τοιαῦτα διεπράξατο, οἷά περ ὑμῖν ἀπέδειξα.
- 56 Πάντων δὲ μάλιστα ἀγανακτῆσαί ἐστιν ἄξιον, ὅταν οὗτοι καταχρῶνται τῷ Εὐκτήμονος ὀνόματι

<sup>1</sup> Φιλοκτήμον' Dobree: -μων.

<sup>2</sup> τε add. Aldus.

<sup>a</sup> i.e., Antidorus.

same property. Yet if Philoctemon disposed of his property by will when he was not entitled to do so, the point against which they ought to have protested is that he was not legally capable of adopting my client as his son ; but if it is lawful to make a will, and our opponent claims on the ground that Philoctemon made no donation or will, he ought not to have hindered proceedings by a protestation, but to have proceeded by means of a direct action. As it is, what clearer method is there of convicting him of perjury than by putting the following question to him : " How do you know, Androcles, that Philoctemon neither made a will nor adopted Chaerestratus as his son ? " For when a man has been present, gentlemen, it is just that he should give evidence of what he has seen, and when he has not been present but has heard someone else describe what happened, he can give evidence by hearsay ; but you, though you were not present, have given explicit evidence that Philoctemon made no will and died childless. How, gentlemen, can he possibly know this ? It is as though he were to say, not having been present, that he knows about all the acts of you all. Impudent as he is, he will scarcely assert that he was present at and is acquainted with all the acts of Philoctemon's life ; for Philoctemon regarded him as his bitterest enemy, both because of his general bad character, and because he was the only one of his kinsmen who, in league with the infamous Alce, plotted with this friend of his <sup>a</sup> and his other accomplices against the property of Euctemon, and committed the acts which I have described to you.

But what calls for the greatest indignation is the wicked use which our opponents make of the name

τοῦ τουδὶ πάππου.<sup>1</sup> εἰ γάρ, ὡς οὗτοι λέγουσι, τῷ μὲν Φιλοκτήμονι μὴ ἐξῆν διαθέσθαι, τοῦ δ' Εὐκτήμονός ἐστιν ὁ κλῆρος, πότερον δικαιότερον τῶν Εὐκτήμονος κληρονομεῖν τὰς ἐκείνου θυγατέ-  
 [62] ρας, ὁμολογουμένως οὔσας γνησίας, | καὶ ἡμᾶς τοὺς ἐκ τούτων γεγονότας, ἢ τοὺς οὐδὲν προσήκοντας,  
 57 οἳ οὐ μόνον ὑφ'<sup>2</sup> ἡμῶν ἐλέγχονται, ἀλλὰ καὶ ἐξ ὧν αὐτοὶ ἐπίτροποι διαπεπραγμένοι εἰσὶ; τοῦτο γὰρ ὑμῶν δέομαι καὶ ἰκετεύω σφόδρα μεμνήσθαι, ὦ ἄνδρες, ὅπερ ὀλίγω πρότερον ἀπέδειξα ὑμῖν, ὅτι Ἀνδροκλῆς οὐτοσί φησὶ<sup>3</sup> μὲν εἶναι ἐπίτροπος αὐτῶν ὡς ὄντων γνησίων Εὐκτήμονος, εἴληχε δ' αὐτὸς<sup>4</sup> [ἐφ'] ἑαυτῷ τοῦ Εὐκτήμονος κλήρου καὶ τῆς θυγατρὸς αὐτοῦ ὡς οὔσης ἐπικλήρου· καὶ  
 58 ταῦτα μεμαρτύρηται ὑμῖν. καίτοι πῶς οὐ δεινόν, ὦ ἄνδρες, πρὸς θεῶν Ὀλυμπίων, εἰ μὲν οἱ παῖδές εἰσι γνήσιοι, τὸν ἐπίτροπον ἑαυτῷ λαγχάνειν τοῦ Εὐκτήμονος κλήρου καὶ τῆς θυγατρὸς αὐτοῦ ὡς οὔσης ἐπιδίκου, εἰ δὲ μὴ εἰσι γνήσιοι, νῦν δια- μεμαρτυρηκέναι ὡς εἰσὶ γνήσιοι; ταῦτα γὰρ αὐτὰ ἑαυτοῖς ἐναντία ἐστίν.<sup>5</sup> ὥστ' οὐ μόνον ὑφ' ἡμῶν ἐλέγχεται τὰ ψευδῇ διαμεμαρτυρηκώς, ἀλλὰ καὶ  
 59 ἐξ ὧν αὐτὸς πράττει. καὶ τούτῳ μὲν οὐδεὶς διαμαρτυρεῖ μὴ ἐπίδικον εἶναι τὸν κλῆρον, ἀλλ' εὐθυδικία εἰσιέναι <ἐξῆν>,<sup>6</sup> οὗτος δ' ἅπαντας ἀπο- στερεῖ τῆς ἀμφισβητήσεως. καὶ διαρρήδην μαρ- τυρήσας γνησίους τοὺς παῖδας εἶναι, οἴεται ἐξ- αρκέσειν ὑμῖν παρεκβάσεις, ἐὰν δὲ τοῦτο μὲν μηδ'

<sup>1</sup> τοῦ τουδὶ πάππου Reiske: τῷ τουδὶ πάππῳ.

<sup>2</sup> ὑφ' Bekker: ἐξ.

<sup>3</sup> φησὶ Aldus: φήσει.

<sup>4</sup> αὐτὸς Reiske: αὐτοῖς.

<sup>5</sup> ἐστίν M, Bekker: εἰσίν.

<sup>6</sup> ἐξῆν add. Thalheim.

of Euctemon, my client's grandfather. For if, as they assert, Philoctemon had no right to make a will, and the estate was Euctemon's, who have a better right to inherit Euctemon's property? His daughters, who are admittedly legitimate, and we <sup>a</sup> who are their sons? Or men who bear no relation to him, and whose claims are refuted not only by you but also by the acts which they have themselves committed as guardians? For I beg and earnestly beseech you, gentlemen, to remember the point which I put before you a short while ago, that Androcles here declares that he is guardian of my clients as being the legitimate sons of Euctemon, and has also himself claimed for himself the estate of Euctemon and his daughter as heiress; and evidence of this has been placed before you. By the gods of Olympus, is it not extraordinary, gentlemen, that, if the children are legitimate, their guardian should claim for himself the estate of Euctemon and his daughter as an heiress, and, if they are not legitimate, that he should have given evidence now in support of their legitimacy? For these acts are the very contrary of one another; so that he is convicted of perjury not only by us but by his own acts. No one is putting in a protestation that the estate is not adjudicable, and Androcles was at liberty to proceed by means of a direct action; now he is depriving everyone else of their right to claim. Having explicitly stated in his evidence that the children are legitimate, he thinks that you will be satisfied with rhetorical digressions, and that if he does not attempt to

<sup>a</sup> The speaker here associates himself with his clients.

- ἐγχειρήσῃ ἐπιδεικνύναι ἢ καὶ κατὰ μικρόν τι ἐπιμνησθῇ, ἡμῖν δὲ λοιδορήσῃται<sup>1</sup> μεγάλη τῇ φωνῇ καὶ λέγῃ<sup>2</sup> ὥς εἰσὶν οἷδε μὲν πλούσιοι αὐτὸς δὲ πένης, διὰ δὲ ταῦτα δόξειν τοὺς παῖδας εἶναι  
 60 γνησίους. τῆς δὲ τούτων οὐσίας, ὦ ἄνδρες, εἰς τὴν πόλιν πλείω ἀναλίσκεται ἢ εἰς αὐτοὺς τούτους. καὶ Φανόστρατος μὲν τετρηιράρχηκεν ἐπτάκις ἤδη, τὰς δὲ λητουργίας ἀπάσας λελητούργηκε καὶ τὰς πλείστας νίκας νενίκηκεν· οὗτοσὶ δὲ Χαιρέστρατος τηλικούτος ὢν τετρηιράρχηκε, κεχορήγηκε δὲ τραγωδοῖς, γεγυμνασιάρχηκε δὲ λαμπάδι· καὶ τὰς εἰσφοράς εἰσενηνόχασιν<sup>3</sup> ἀμφότεροι πάσας ἐν τοῖς τριακοσίοις. καὶ τέως μὲν δὴ ὄντες, νῦν δὲ καὶ ὁ νεώτερος οὗτοσὶ χορηγεῖ μὲν τραγωδοῖς, εἰς δὲ τοὺς τριακοσίους ἐγγέγραπται καὶ εἰσφέρει τὰς  
 61 εἰσφοράς. ὥστ' οὐ φθονεῖσθαί εἰσιν ἄξιοι, ἀλλὰ πολὺ μᾶλλον νῇ Δία καὶ τὸν Ἀπόλλω οὔτοι, εἰ λήψονται ἂ μὴ προσήκει αὐτοῖς. τοῦ γὰρ Φιλοκτήμονος κλήρου ἂν μὲν ἐπιδικάσῃται ὅδε, ὑμῖν αὐτὸν ταμιεύσει, τὰ προσταττόμενα λητουργῶν ὥσπερ καὶ νῦν καὶ ἔτι μᾶλλον· ἐὰν δ' οὔτοι λάβωσι, διαφορήσαντες ἐτέροις ἐπιβουλεύσουσι.
- 62 Δέομαι οὖν ὑμῶν, ὦ ἄνδρες, ἵνα μὴ ἐξαπατηθῇτε, τῇ διαμαρτυρίᾳ τὸν νοῦν προσέχειν περὶ ἧς τὴν ψῆφον οἴσεται· καὶ πρὸς ταύτην αὐτὸν κελεύετε τὴν ἀπολογίαν ποιεῖσθαι, ὥσπερ καὶ ἡμεῖς κατηγορήσαμεν. γέγραπται ὥς οὐκ ἔδωκεν οὐδὲ διέθετο

<sup>1</sup> λοιδορήσῃται Aldus: -εται.

<sup>2</sup> λέγῃ Aldus: λέγει.

<sup>3</sup> εἰσενηνόχασιν Reiske: -ήνοχαν.

<sup>a</sup> i.e., the richest class.

prove his point or dwells only very lightly upon it, but rails against us in a loud voice and says that my clients are rich, while he is poor—all this will make it appear that the children are legitimate. Now the family fortune, gentlemen, is being spent rather upon the city than upon the members of the family themselves. Phanostratus has already been trierarch seven times, and he has performed all the public services and has generally been victorious. Chaerestratus here, young as he is, has been trierarch; he has been *choregus* in the tragic competitions; he has been gymnasiarch at the torch-races. Both of them have paid all the special war-taxes, being numbered among the three hundred.<sup>a</sup> Formerly only these two members of the family contributed, but now the younger son here is *choregus* in the tragic competitions and has been enrolled among the three hundred and pays the war-tax. No grudge ought, therefore, to be felt against them, but rather, by Zeus and Apollo, against our opponents, if they obtain what does not belong to them. If the estate of Philoctemon is adjudicated to my client, he will hold it in trust for you, performing all the public services which you lay upon him, as he has done hitherto, and with even greater generosity. If, on the other hand, our opponents receive it, they will squander it and then seek other victims.

I beseech you, therefore, gentlemen, in order that you may not be misled, to give your careful attention to the protestation about which you are going to give your verdict. Instruct him to make that the subject of his defence, just as it has been the subject of our accusation. The text of the pro-



Φιλοκτήμων· τοῦτο ἐπιδέδεικται ψεύδος ὄν· καὶ γὰρ [ὁ δούς καὶ ὁ διαθέμενος καὶ] μαρτυροῦσιν οἱ  
63 παραγενόμενοι. τί ἔτι; τελευτήσαι ἄπαιδα Φιλο-  
κτήμονα. πῶς οὖν ἄπαις ἦν ὅστις<sup>1</sup> τὸν ἑαυτοῦ  
ἀδελφιδοῦν υἱὸν ποιησάμενος κατέλιπεν, ὥ ὁμοίως  
ὁ νόμος τὴν κληρονομίαν ἀποδίδωσι καὶ τοῖς ἐξ  
αὐτοῦ γενομένοις; καὶ διαρρήδην ἐν τῷ νόμῳ  
γέγραπται, ἐὰν ποιησαμένῳ παῖδες ἐπιγένωνται,  
τὸ μέρος ἐκάτερον ἔχειν τῆς οὐσίας καὶ κληρο-  
64 νομεῖν ὁμοίως ἀμφοτέρους. ὥς οὖν εἰσὶ γνήσιοι οἱ  
παῖδες οἶδε, τοῦτ' αὐτὸ ἐπιδεικνύτω, ὥσπερ ἂν  
ὑμῶν ἕκαστος. οὐ γὰρ ἂν εἴπη μητρὸς ὄνομα,  
γνήσιοί εἰσιν,<sup>2</sup> ἀλλ' ἐὰν ἐπιδεικνύῃ ὡς ἀληθῆ λέγει,  
τοὺς συγγενεῖς παρεχόμενος τοὺς εἰδότας συν-  
οικοῦσαν τῷ Εὐκτήμονι <καὶ><sup>3</sup> τοὺς δημότας καὶ  
τοὺς φράτορας, εἴ τι ἀκηκόασι πώποτε ἢ ἴσασιν  
ὑπὲρ αὐτῆς Εὐκτήμονα λητουργήσαντα, ἔτι δὲ ποῦ  
65 τέθαπται, ἐν ποίοις μνήμασι, <καὶ><sup>4</sup> τίς εἶδε τὰ  
νομιζόμενα ποιῶντα Εὐκτήμονα· ποῖ δ' ἔτ' ἰόντες  
οἱ παῖδες ἐναγίζουσι καὶ χέονται, καὶ τίς εἶδε  
ταῦτα τῶν πολιτῶν ἢ τῶν οἰκετῶν <τῶν><sup>5</sup> Εὐ-  
κτήμονος. ταῦτα γάρ ἐστιν ἔλεγχος<sup>6</sup> ἅπαντα, καὶ  
οὐ λαιδορία. καὶ ἐὰν περὶ αὐτοῦ τούτου κελεύητε  
ἐπιδεικνύναι ὥσπερ καὶ διεμαρτύρησεν, ὑμεῖς τε  
τὴν ψῆφον ὁσίαν καὶ κατὰ τοὺς νόμους θήσεσθε,  
τοῖσδέ τε τὰ δίκαια γενήσεται.

<sup>1</sup> ἄπαις ἦν ὅστις Reiske: ἂν αἰσιμός τις.

<sup>2</sup> γνήσιοι εἰσιν Bekker: γνήσιός ἐστιν.

<sup>3</sup> καὶ add. Sauppe.

<sup>4</sup> καὶ add. Buermann.

<sup>5</sup> τῶν add. Dobree.

<sup>6</sup> ἔλεγχος Aldus: ἐνοχος.



testation has stated that Philoctemon made no gift of property or will; this has been proved to be false, for those who were present are witnesses that he did so. What further do they say? That Philoctemon died childless. How could he be childless, when he adopted and was survived by his own nephew, to whom the law gives the right of inheritance just as much as to children of his own body? Indeed, it is expressly stated in the law that, if children are born subsequently to one who has adopted a son, each child takes his share of the estate and both classes of children alike inherit. Let Androcles, therefore, prove that the children are legitimate, as any one of you would have to do in similar circumstances. His mere mention of a mother's name does not suffice to make them legitimate, but he must prove that he is speaking the truth by producing the relatives who know that she was married to Euctemon, and the members of the deme and of the ward, if they have ever heard or have any knowledge that Euctemon performed any public services on her behalf. We must know where she is buried and in what sort of tomb, and who has ever seen Euctemon performing the customary rights over her, and whither her sons still go to offer sacrifices and libations, and who of the citizens or of the slaves of Euctemon has ever seen these rites being performed. It is all these details, and not mere invective, which constitute a proof. If you bid him prove the actual contention which is the subject of his protestation, you will give a verdict which accords with your oath and with the laws, and justice will be done to my clients.



VII. ON THE ESTATE OF  
APOLLODORUS

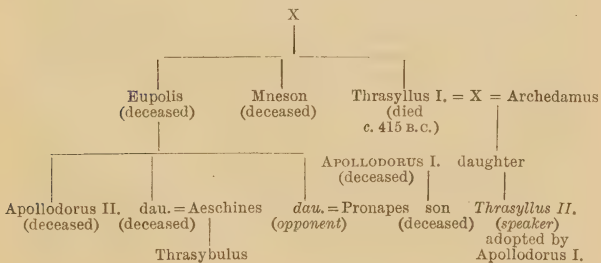


## VII. ON THE ESTATE OF APOLLODORUS

### INTRODUCTION

THREE brothers, Eupolis, Mneson, and Thrasyllus I.,<sup>a</sup> had inherited a substantial fortune from their father. Mneson died without issue; and Thrasyllus was killed during the Sicilian expedition (415-413 B.C.), leaving a young son Apollodorus I., of whom the surviving brother, Eupolis, became guardian. The widow of Thrasyllus I. married a certain Archedamus, who, finding that his stepson Apollodorus I. was being defrauded by his guardian, helped him to obtain redress in the law-courts. Apollodorus, being on terms of close friendship with his stepfather, and having lost his only son, determined to adopt

#### <sup>a</sup> STEMMA



the grandchild of Archedamus, the son of his half-sister, who took the name of Thrasyllus and delivered the present speech. Unfortunately, Apollodorus died before the formalities of the adoption had been completed. Though registered with the heads of families and in the ward, Thrasyllus II. had not been inscribed as a member of the deme; he was, however, admitted to the deme after his adopted father's death. In spite of this, the estate was claimed by the wife of Pronapes, a daughter of Eupolis and therefore the first cousin of Apollodorus. Her sister's son, Thrasybulus, who had an equal claim in law, refused to press it, because, according to Thrasyllus, he was satisfied that the adoption was valid.

That Apollodorus had intended to complete the formalities of the adoption does not seem to have been disputed; the fact remains, however, that he had not done so, and thus on his death the estate had become vacant, and claimable by law, before Thrasyllus II. had been duly registered in the deme. This point is skilfully treated by the speaker, who dwells at length upon the formalities actually carried out before Apollodorus's death, and only casually slips in the fact that he was afterwards registered in the deme as the confirmation of a later argument. He is at pains to show the close bonds of material benefits and of affection which subsisted between Apollodorus and himself, his mother and his grandfather, and the enmity between them all and Eupolis; and he enlarges on the public spirit shown by Thrasyllus I., Apollodorus, and himself, and the meanness of Pronapes, who, he says, has failed to declare his full fortune so as to avoid performing public

## ON THE ESTATE OF APOLLODORUS

services, and who, though his wife had inherited half the fortune of her brother Apollodorus II., has allowed his house to become extinct. Apollodorus's quarrel with Eupolis and the mean behaviour of his daughters towards their deceased brother were, he urges, a strong motive for leaving his property elsewhere; in addition to this he desired a son to take the place of his dead child and naturally sought one in the family of his half-sister.

Though legally the non-completion of the formalities of adoption raises a difficulty, there can be little doubt that in equity the claim of Thrasyllus was a strong one.

The date of the speech cannot be fixed, but it is posterior to 357–356 B.C., the earliest date at which there is any evidence of the system of joint contribution for the trierarchy (§ 38). It has been argued from § 27 that the speech was delivered in the year of the Pythian Festival, which fell in the third year of the Olympiad, and that, therefore, the speech was delivered in 354–353 B.C. or 350–349 B.C. This argument, however, rests on the substitution of Πυθιάδος for the ms. reading Πυθαῖδος. The latter is supported by Delphic inscriptions and has reference to a festival which was celebrated by the Athenians at Delphi in May or June and had no connexion with the pan-Hellenic Pythian festival.<sup>a</sup> As we do not know at what intervals the Pythaid festival was celebrated, no arguments as to date can be founded on this passage.

<sup>a</sup> This festival has been the subject of a treatise by A. Boëthius, *Die Pythais: Studien zur Geschichte der Verbindungen zwischen Athen und Delphi* (Upsala, 1918), who is of opinion that its celebration only took place at rare intervals.

[63] VII. ΠΕΡΙ ΤΟΥ ΑΠΟΛΛΟΔΩΡΟΥ ΚΛΗΡΟΥ

ΥΠΟΘΕΣΙΣ

Εὐπολις καὶ Θράσυλλος καὶ Μνήσων ἀδελφοὶ γεγό-  
 νασι. τούτων ὁ μὲν Μνήσων ἄπαις ἐτελεύτησεν, ὁ δὲ  
 Θράσυλλος παῖδα καταλιπὼν Ἀπολλόδωρον· μόνος δ'  
 Εὐπολις καταλειφθεὶς πολλὰ τὸν Ἀπολλόδωρον ἡδίκη-  
 σεν. ὅθεν Ἀρχέδαμος, πάππος τοῦ λέγοντος τὸν λόγον,  
 τῇ τοῦ Ἀπολλοδώρου μητρὶ συνοικῶν μετὰ τὸν Θρασύλ-  
 λου τοῦ ἀνδρὸς αὐτῆς θάνατον, καὶ τὸν Ἀπολλόδωρον  
 ὡς ὀρφανὸν ἐλεῶν, πολλὰ τὸν Εὐπολιν ἀπήτησε χρήματα  
 ὑπὲρ ὧν Ἀπολλόδωρον ἡδίκησε. τούτων μεμνημένος  
 Ἀπολλόδωρος εἰσήγαγεν εἰς τοὺς φράτορας θετὸν υἱὸν  
 ἑαυτῷ Θράσυλλον τοῦτον, υἱὸν ὄντα τῆς [τε] ὁμομητρίας  
 αὐτοῦ ἀδελφῆς καὶ <θυγατριδοῦν><sup>1</sup> Ἀρχεδάμου. τοῦ δὲ  
 Θρασύλλου ἤδη μὲν εἰς τοὺς γεννήτας καὶ φράτορας  
 ἐγγεγραμμένοι, οὐπω δ' εἰς τὸ ληξιαρχικὸν γραμματεῖον,  
 ἐτελεύτησεν Ἀπολλόδωρος. καὶ μετὰ τὴν αὐτοῦ τελευτὴν  
 ἐγγέγραπται μὲν ὁ Θράσυλλος εἰς τὸ ληξιαρχικὸν γραμ-  
 ματεῖον, οὐδὲν δ' ἦττον Εὐπόλιδος θυγάτηρ, τοῦ θείου  
 Ἀπολλοδώρου, ἀμφισβητεῖ πρὸς Θράσυλλον, λέγουσα  
 μηδ' ὅλως ἐγγεγράφθαι τὸν Θράσυλλον εἰς τοὺς φράτορας  
 καὶ γεννήτας κατὰ γνώμην τοῦ Ἀπολλοδώρου, ἀλλὰ  
 πεπλασμένην εἶναι τὴν ποίησιν. καὶ ἡ μὲν ὑπόθεσις  
 αὕτη, ἡ δὲ στάσις στοχασμός· διὸ καλῶς πάνυ καὶ  
 τεχνικῶς τὸν λόγον οἰκονομῶν τὴν ἔχθραν<sup>2</sup> διεξέρχεται  
 τὴν Ἀπολλοδώρου πρὸς Εὐπολιν, ὅπερ μέγα σημεῖον



## VII. ON THE ESTATE OF APOLLODORUS

### ARGUMENT

Eupolis, Thrasyllus (I.), and Mneson were brothers. Mneson died without issue; Thrasyllus (I.) died leaving a son, Apollodorus; Eupolis, the sole survivor of the three, acted with great injustice towards Apollodorus. Archedamus, therefore, the grandfather of the man who makes the speech, being married to Apollodorus's mother after her first husband's death, pitying Apollodorus because he was an orphan, claimed a large sum of money from Eupolis on account of the wrongs committed by the latter against Apollodorus. Mindful of this kindness Apollodorus introduced Thrasyllus, the son of his half-sister and grandson of Archedamus, to his fellow-wardsmen as his adopted son. Thrasyllus (II.) had already been inscribed among the members of the families and of the ward, but had not yet been placed on the official register of the deme, when Apollodorus died. After Apollodorus's death Thrasyllus (II.) was inscribed on the register; nevertheless the daughter of Eupolis, the uncle of Apollodorus, contested the succession against Thrasyllus (II.), alleging that it was not by any means in accordance with the wishes of Apollodorus that Thrasyllus had been inscribed among the wardsmen and kindred, and that the adoption was fictitious. Such is the subject of the trial; the discussion turns on a question of fact, and so, with great skill and ingenuity, the speaker explains the enmity of Apollodorus towards Eupolis, which

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<sup>1</sup> θυγατριδοῦν add. Schoemann.

<sup>2</sup> ἐχθραν Reiske: ἐλευθέραν.

γίγνεται τοῦ μὴ θέλαιν αὐτὴν ὑπὸ τῆς Εὐπόλιδος  
θυγατρὸς κληρονομηθῆναι.

- 1 "Ωμην μὲν, ὦ ἄνδρες, προσήκειν οὐ τὰς τοιαύ-  
τας ἀμφισβητεῖσθαι ποιήσεις, εἴ τις αὐτὸς ζῶν καὶ  
εὖ φρονῶν ἐποιήσατο καὶ ἐπὶ τὰ ἱερὰ ἀγαγὼν εἰς  
τοὺς συγγενεῖς ἀπέδειξε καὶ εἰς τὰ κοινὰ γραμ-  
ματεῖα ἐνέγραψεν, ἅπανθ' ὅσα προσήκεν αὐτὸς  
ποιήσας, ἀλλ' εἴ τις τελευτήσῃν μέλλων διέθετο,  
εἴ τι πάθοι, τὴν οὐσίαν ἐτέρῳ, καὶ ταῦτ' ἐν<sup>1</sup> γράμ-  
2 μασι κατέθετο παρά τισι σημηνάμενος. ἐκείνον  
μὲν γὰρ τὸν τρόπον ποιησάμενος φανερὰς κατ-  
έστησε τὰς αὐτοῦ βουλήσεις, ὅλον τὸ πρᾶγμα  
ἐπικυρώσας, δόντων αὐτῷ τῶν νόμων· ὁ δ' ἐν  
διαθήκαις σημηνάμενος ἀδήλους ἐποίησε, διὸ  
πολλοὶ πεπλάσθαι φάσκοντες αὐτὰς ἀμφισβητεῖν  
ἀξιούσι πρὸς τοὺς ποιηθέντας. ἔοικε δ' οὐδὲν  
προὔργου τοῦτο εἶναι· καὶ γὰρ οὕτως αὐτῶν φανε-  
ρῶς πεπραγμένων ὅμως ὑπὲρ τῆς θυγατρὸς τῆς  
Εὐπόλιδος ἤκουσι περὶ τῶν Ἀπολλοδώρου χρημά-  
3 των πρὸς ἐμὲ ἀμφισβητήσοντες. ἐγὼ δ' εἰ μὲν  
ἑώρων ὑμᾶς μᾶλλον ἀποδεχομένους τὰς δια-  
μαρτυρίας ἢ τὰς εὐθυδικίας, κἂν μάρτυρας προὔ-  
βαλόμην μὴ ἐπίδικον εἶναι τὸν κλῆρον ὥς ποιη-  
σαμένου με ὑὸν Ἀπολλοδώρου κατὰ τοὺς νόμους.  
ἐπειδὴ δ' οὐ διαφεύγει τὰ δίκαια μὴ οὐ κατὰ τοῦτον  
γινγνώσκεσθαι τὸν τρόπον [καὶ] παρ' ὑμῖν, αὐτὸς<sup>2</sup>

<sup>1</sup> ταῦτ' ἐν Reiske: ταύτην.

<sup>2</sup> αὐτὸς Dobree: αὐτοῖς.

<sup>a</sup> See p. 37.

supplies a strong presumption that he did not wish that his property should be inherited by Eupolis's daughter.

I should have thought, gentlemen, that there was one class of adoptions which could not be disputed, namely, those which are made by the adopter personally in his lifetime and in full possession of his faculties, after he has led his adopted son to the domestic shrines and presented him to his kindred and inscribed him in the official registers, and himself carried out all the proper formalities. On the other hand, a dispute might well arise, when a man, feeling that his end is near, has disposed of his property in favour of another, if anything should happen to him, and putting his wishes in a written document has sealed it up and deposited it in the custody of others. By the former method the adopter sets forth his wishes with perfect clearness, making the whole transaction valid in the manner permitted by the laws; whereas the man who commits his wishes to a sealed-up will makes them secret, with the result that claimants often think fit to contest the succession against adopted sons, alleging that the will is a forgery. It appears, however, that this distinction is of little practical value; for though my adoption was quite openly carried out, yet representatives of Eupolis's daughter have come forward to contest my right to Apollodorus's estate. If I observed that you prefer a protestation <sup>a</sup> to a direct action, I should have brought forward witnesses to show that the estate is not liable to adjudication, seeing that Apollodorus adopted me in the proper legal form; but since I am sensible that by the former method the rights of the case cannot fully be made known to you, I

ἤκω διαλεξόμενος περὶ τῶν πεπραγμένων, ἵνα  
μηδεμίαν ἡμῖν<sup>1</sup> αἰτίαν περὶ τοῦ μὴ βούλεσθαι  
4 δοῦναι δίκην τοιαύτην ἐπιφέρωσιν. ἀποδείξω δὲ  
ὥς οὐ μόνον ἐπὶ τοῖς ἐγγυτάτῳ γένους τὸν κλῆρον  
Ἀπολλόδωρος οὐ καταλέλοιπε, πολλὰ καὶ δεινὰ  
ὑπὸ τούτων ἀδικηθεῖς, ἀλλὰ καὶ ὥς ἐμὲ ἐποιήσατο  
δικαίως, ὄντα ἀδελφιδοῦν, καὶ μεγάλα<sup>2</sup> εὐεργετημέ-  
νος ὑφ' ἡμῶν. δέομαι δὲ ὑμῶν, ὦ ἄνδρες, πάντων  
ὁμοίως εὐνοϊάν τέ μοι παρασχεῖν, καὶ ἐπὶ τὸν κλῆ-  
ρον ἀναιδῶς αὐτοὺς ἰόντας ἐξελέγχω, βοηθεῖν μοι  
τὰ δίκαια. ποιήσομαι δ' ὥς ἂν καὶ γὰρ δύνωμαι<sup>3</sup>  
διὰ βραχυτάτων τοὺς λόγους, ἐξ ἀρχῆς ὥς ἔχει  
τὰ γενόμενα διδάσκων ὑμᾶς.

5 Εὐπόλις γάρ, ὦ ἄνδρες, καὶ Θράσυλλος καὶ Μνή-  
σων ἀδελφοὶ ἦσαν ὁμομήτριοι καὶ ὁμοπάτριοι.  
τούτοις οὐσίαν ὁ πατὴρ κατέλιπε πολλήν, ὥστε  
καὶ λειτουργεῖν ἕκαστον ἀξιουῖσθαι παρ' ὑμῖν.  
ταύτην ἐκείνοι τρεῖς ὄντες ἐνείμοντο πρὸς ἀλλή-  
λους. τούτων τῷ δύο ἐτελευτησάτην<sup>4</sup> περὶ τὸν  
αὐτὸν χρόνον, ὁ μὲν Μνήσων ἐνθάδε ἄγαμος καὶ  
ἄπαις, ὁ δὲ Θράσυλλος τῶν ἐν Σικελίᾳ καταλεγείς  
τριηράρχων, καταλιπὼν υἱὸν<sup>5</sup> Ἀπολλόδωρον τὸν  
6 ἐμὲ νῦν ποιησάμενον. Εὐπόλις οὖν μόνος αὐτῶν

[64] λειφθεὶς οὐ μικρὰ ἀπολαῦσαι τῶν χρημάτων  
ἠξίωσεν, ἀλλὰ τὸν μὲν Μνήσονος κλῆρον, οὐ καὶ  
Ἀπολλοδώρῳ προσῆκε τὸ ἡμικλήριον, πάντα εἰς  
αὐτὸν περιεποίησε, φάσκων αὐτῷ δοῦναι τὸν ἀδελ-  
φόν, αὐτὸν δ' ἐκείνον οὕτω διώκησεν ἐπιτροπεύων  
ὥστε τριῶν αὐτῷ ταλάντων δίκην ὀφλεῖν.<sup>6</sup>

<sup>1</sup> ἡμῖν Reiske: ὑμῖν.

<sup>2</sup> μεγάλα Dobree: μέγα.

<sup>3</sup> δύνωμαι Aldus: δύναμαι.

<sup>4</sup> τῷ δύο ἐτελευτησάτην Bekker: τῶν δύο \*\* τελευτησάντων.

have myself come forward to explain the facts, so that they may bring no charge against us of being unwilling to submit to such a trial. I shall prove to you, not only that Apollodorus was prevented from leaving his estate to his nearest relatives by the many injuries which he had sustained at their hands, but also that he legally adopted me, his nephew, after having received great benefits from my family. I beg you all, gentlemen, to accord me your goodwill, and, if I can prove that my opponents are laying impudent claim to the estate, to help me to obtain my just rights. I will speak as briefly as I can, relating to you all that has happened from the beginning.

Eupolis, Thrasyllus, and Mneson were brothers, children of the same father and mother. Their father left them a large property, so that each of them was considered able to perform public offices in the city. This fortune the three brothers divided amongst themselves. Two of them died about the same time, Mneson here in Athens, unmarried and without issue, Thrasyllus in Sicily,<sup>a</sup> having been chosen as one of the trierarchs, leaving a son Apollodorus, who afterwards adopted me. Eupolis, the sole survivor of the three brothers, was not content to enjoy only a part of the family fortune, but seized for himself the whole of Mneson's estate, half of which belonged to Apollodorus, alleging that his brother had given it to him, and, as guardian, so administered the affairs of Apollodorus that he was condemned to restore three talents to him.

<sup>a</sup> During the Sicilian expedition of 415-413 B.C.

<sup>5</sup> *νὶδν* Naber: *νῦν*.

<sup>6</sup> *ὀφλεῖν* Reiske: *ὀφείλειν*.

- 7 Ἀρχέδαμος γὰρ ὁ πάππος οὐμός, ἐξ οὗ τὴν  
μητέρα ἔσχε<sup>1</sup> τὴν Ἀπολλοδώρου, τήθην δὲ ἐμήν,<sup>2</sup>  
ὁρῶν αὐτὸν πάντων ἀποστερούμενον τῶν χρη-  
μάτων, ἔτρεφέ τε αὐτὸν παῖδα ὄνθ', ὡς ἑαυτὸν<sup>3</sup>  
καὶ τὴν μητέρα κομισάμενος, ἀνδρί τε γενομένῳ  
συνηγώνισατο καὶ εἰσέπραξε τὸ ἡμικλήριον ὧν  
Μνήσων κατέλιπεν ὅσα τε ἐκ τῆς ἐπιτροπῆς ἀπ-  
εστέρησε, δίκας δύο ἐλών, καὶ τὴν οὐσίαν ἐποίησε  
8 κομίσασθαι τὴν αὐτοῦ πᾶσαν. καὶ διὰ ταῦτα  
Εὐπολις μὲν καὶ Ἀπολλόδωρος ἐχθρῶς ἔχοντες  
τὸν πάντα χρόνον διετέλεσαν πρὸς ἀλλήλους, ὁ δὲ  
πάππος οὐμός καὶ Ἀπολλόδωρος φιλικῶς, ὥσπερ  
προσῆκε. τοῖς δ' ἔργοις ἄν τις τεκμήραιτο μάλιστα  
ὅτι Ἀπολλόδωρος πέπονθεν ὁ ἀντενποιεῖν ἡξίου  
τοὺς ἑαυτὸν εὐεργετήσαντας. συμφορᾷ γὰρ τοῦ  
πάππου χρησαμένου καὶ ληφθέντος εἰς τοὺς πο-  
λεμίους, καὶ χρήματα εἰσενεγκεῖν εἰς λύτρα καὶ  
ὀμηρεῦσαι ὑπὲρ αὐτοῦ ἠθέλησεν, ἕως [οὗ] εὐ-  
9 πορήσειεν ἐκείνος τὰργύριον. ἐξ εὐπόρου τε ἀ-  
πορωτέρῳ γεγεννημένῳ συνδιώκει τὰ ἐκείνου, μετα-  
διδούς ὧν εἶχεν. εἰς Κόρινθόν τε στρατεύεσθαι  
μέλλων, εἴ τι πάθοι, διέθετο τὴν οὐσίαν καὶ ἔδωκε  
τῇ ἐκείνου μὲν θυγατρί, ἐμῇ δὲ μητρί, αὐτοῦ δὲ  
ἀδελφῇ, διδούς αὐτὴν Λακρατίδῃ τῷ νῦν ἱεροφάντῃ  
γεγεννημένῳ. τοιοῦτος ἦν ἐκείνος περὶ ἡμᾶς τοὺς  
10 ἐξ ἀρχῆς αὐτὸν σώσαντας. ὡς δ' ἀληθῆ λέγω,  
καὶ δίκας εἶλεν Εὐπολιν δύο, τὴν μὲν ἐπιτροπῆς

<sup>1</sup> ἔσχε Sauppe: ἔχων.

<sup>2</sup> ἐμήν M, Bekker: ἐμοί.

<sup>3</sup> ἑαυτὸν Schoemann: -οῦ.

<sup>a</sup> Athenian troops were engaged in the region of Corinth from 394 to 390 B.C.

<sup>b</sup> See note on vi. 33.

For my grandfather Archedamus, from the time that he married Apollodorus's mother, my grandmother, seeing that he was deprived of all his fortune, took him to his own house and to his mother and brought him up while he was a boy, and, when he came to man's estate, assisted him to bring an action and secured the restitution of the half-share of the estate left by Mneson and all that Eupolis embezzled in his capacity as guardian, winning two law-suits, and so enabled Apollodorus to recover all his fortune. As a result Eupolis and Apollodorus were always at enmity with one another, while my grandfather and Apollodorus were naturally close friends. The acts of Apollodorus supply the best evidence that he has received kind treatment for which he thought fit to make return to his benefactors. For, when my grandfather met with misfortune and was taken a prisoner of war, Apollodorus consented to contribute money for his ransom and act as a hostage for him until he could raise the necessary sum of money. When Archedamus had been reduced from affluence to embarrassment, Apollodorus helped him to look after his affairs, sharing his own money with him. Again, when he was on the point of starting for Corinth on military service,<sup>a</sup> he made a will in case anything happened to him and devised his property to Archedamus's daughter, his own sister and my mother, providing for her marriage with Lacratides, who has now become hierophant.<sup>b</sup> Such was his conduct towards us who had originally saved him from ruin. To prove the truth of my statements that Apollodorus won two actions against Eupolis, one in respect of his guardianship and the other concerning the half-share of Mneson's estate, my



## ISAEUS

τὴν δὲ ἡμικληρίου, τοῦ πάππου συνηγωνισμένου καὶ λέγοντος, τά τε χρήματα ἐκομίσατο δι' ἡμᾶς καὶ ταύτας τὰς χάριτας ἡμῖν ἀνταπέδωκε, τούτων πρῶτον βούλομαι παρασχέσθαι τοὺς μάρτυρας. καὶ μοι κάλει δεῦρο αὐτούς.

## ΜΑΡΤΥΡΕΣ

- 11 Αἱ μὲν οὖν παρ' ἡμῶν εὐεργεσίαι τοιαῦται καὶ τηλικοῦται τὸ μέγεθός εἰσιν· αἱ δὲ πρὸς ἐκείνον ἔχθραι περὶ τοσούτων χρημάτων ἦσαν, ὥς οὐχ οἶόν τ' εἰπεῖν ὥς διελύσαντο καὶ φίλοι ἐγένοντο. μεγάλα γὰρ τεκμήρια αὐτῶν ἐστίν· Εὐπολὶς γὰρ αὐτῷ δυοῖν θυγατέρων οὐσῶν καὶ ἐκ τῶν αὐτῶν αὐτῷ γεγωνὶ καὶ χρήμαθ' ὀρώων κεκτημένον,
- 12 οὐδετέραν αὐτῷ τούτων ἔδωκε. καίτοι δοκοῦσιν ἐπιγαμίαι καὶ μὴ συγγενεῖς ἄνδρας ἀλλὰ καὶ τοὺς τυχόντας ἀπαλλάττειν μεγάλης διαφορᾶς, ὅταν ἂν περὶ πλείστου ποιοῦνται, ταῦτ' ἀλλήλοις ἐγχειρίζωσιν. εἴτ' οὖν Εὐπολὶς γεγένηται αἴτιος <δοῦναι><sup>1</sup> μὴ βουλευθείς, εἴτ' Ἀπολλόδωρος λαβεῖν μὴ ἐβελήσας, τὰς ἔχθρας, ὅτι διέμειναν, τὸ ἔργον δεδήλωκε.
- 13 Καὶ περὶ μὲν τῆς ἐκείνων διαφορᾶς ἱκανοὺς εἶναι νομίζω καὶ τοὺς εἰρημένους λόγους· οἶδα γὰρ ὅτι καὶ ὑμῶν ὅσοι πρεσβύτεροι μνημονεύουσιν ὅτι ἐγένοντο ἀντίδικοι· τό τε γὰρ μέγεθος τῶν δικῶν, καὶ διότι πολὺ αὐτὸν Ἀρχέδαμος εἶλεν, ἐπιφάνειάν τινα ἐποίησεν. ὥς δὲ ἐμὲ ἐποίησατο ὑὸν ζῶν αὐτὸς καὶ κύριον τῶν αὐτοῦ κατέστησε καὶ εἰς

<sup>1</sup> δοῦναι add. Hirschig.



grandfather having supported his case and speaking on his behalf, and that it was thanks to us that he recovered his fortune, and that he requited these good services of ours—on all these points I wish first to produce the witnesses. Please summon them hither.

## WITNESSES

Such is the nature and importance of the benefits which Apollodorus received from us ; on the other hand, his feelings of enmity towards Eupolis had their origin in disputes about such large sums of money that it is impossible to pretend that they could ever make up their quarrel and become friends. A convincing proof of their enmity is the fact that, though Eupolis had two daughters and was descended from the same ancestors and saw that Apollodorus was possessed of money, yet he gave neither of them to him in marriage. Yet it is generally held that marriages reconcile serious animosities not only between relatives but also between ordinary acquaintances, when they entrust one another with what they value most. Whether Eupolis has been to blame in not wishing to give his daughter or Apollodorus in being unwilling to accept her, the fact has proved that their enmity continued.

What has been said about their quarrel is, I think, sufficient ; for I know that the older men among you remember that they were opponents in the law-courts, for the importance of the cases and the fact that heavy damages were obtained by Archidamus gave publicity to their quarrel. I must now ask you, gentlemen, to give your kind attention to the proofs, that Apollodorus himself adopted me during his lifetime and gave me power over his

- τοὺς γεννήτας καὶ εἰς τοὺς φράτορας ἐνέγραψε, τούτοις ἤδη μοι τὸν νοῦν προσέχετε, ὦ ἄνδρες.
- 14 Ἀπολλοδώρῳ γὰρ ἦν υἱός, ὃν ἐκείνος καὶ ἥσκει καὶ δι' ἐπιμελείας εἶχεν, ὥσπερ καὶ προσῆκον ἦν. ἕως μὲν οὖν ἐκείνος ἔζη, διάδοχον τῆς οὐσίας ἤλπιζεν αὐτὸν καταστήσειν τῆς ἑαυτοῦ· ἐπειδὴ δὲ ἐτελεύτησε νοσήσας τοῦ ἐξελθόντος ἐνιαυτοῦ μηνὸς Μαιμακτηριῶνος, ἐπὶ τοῖς παροῦσιν ἀθυμήσας καὶ τὴν ἡλικίαν τὴν ἑαυτοῦ καταμεμψάμενος οὐκ ἐπελάθετο ὑφ' ὧν καὶ ἐξ ἀρχῆς εὖ πεπονθὼς ἦν, ἀλλ' ἐλθὼν ὡς<sup>1</sup> τὴν ἐμὴν μητέρα ἑαυτοῦ δὲ ἀδελφὴν, ἦν περὶ πλείστου πάντων ἐποιεῖτο, λαβεῖν ἡξιώσέ
- 15 με υἱὸν καὶ ἤτησε καὶ ἔτυχεν. οὕτω δ' ἐπείσθη ταῦτα ποιῆσαι διὰ ταχέων, ὥστ' εὐθέως με λαβὼν ὥχετ' ἔχων πρὸς αὐτὸν καὶ πάντα τὰ αὐτοῦ
- [65] διοικεῖν παρέδωκεν, ὡς αὐτὸς μὲν | οὐδὲν ἂν ἔτι πράξαι τούτων δυνηθείς, ἐμοῦ δὲ ταῦτα πάντα οἴου τε ἐσομένου ποιεῖν. καὶ ἐπειδὴ Θαργῆλια<sup>2</sup> ἦν, ἤγαγέ με ἐπὶ τοὺς βωμοὺς εἰς τοὺς γεννήτας
- 16 τε καὶ φράτορας. ἔστι δ' αὐτοῖς νόμος ὁ αὐτός, εἴαν τέ τινα φύσει γεγονότα εἰσάγη τις εἴαν τε ποιητόν, ἐπιτιθέναι πίστιν κατὰ τῶν ἱερῶν ἢ μὴν ἐξ ἀστῆς εἰσάγειν καὶ γεγονότα ὀρθῶς καὶ τὸν ὑπάρχοντα φύσει καὶ τὸν ποιητόν· ποιήσαντος δὲ τοῦ εἰσάγοντος ταῦτα μὴδὲν ἤττον διαψηφίζεσθαι καὶ τοὺς ἄλλους, κἂν δόξῃ, τότ' εἰς τὸ κοινὸν γραμματεῖον ἐγγράφειν, πρότερον δὲ μή· τοιαύτας ἀκρι-
- 17 βείας ἔχει τὰ δίκαια τὰ παρ' αὐτοῖς. τοῦ νόμου

<sup>1</sup> ὡς Reiske: εἰς.<sup>2</sup> Θαργῆλια Aldus: Θαλγηλῖα.

property and inscribed me in the registers of the members of the families and of the ward. Now Apollodorus had a son whom he brought up and dearly cherished, as indeed was only natural. As long as this child lived, he hoped to make him heir to his property ; but when he fell ill and died in the month of Maemacterion <sup>a</sup> of last year, Apollodorus, depressed by his misfortunes and viewing his advanced age with regret, did not fail to bethink him of the family at whose hands he had in earlier years received kindness ; so he came to my mother, his own sister, for whom he had a greater regard than for anyone else, and expressed a wish to adopt me and asked her permission, which was granted. He was so determined to act with all possible haste that he straightway took me to his own house and entrusted me with the direction of all his affairs, regarding himself as no longer capable of managing anything himself, and thinking that I should be able to do everything. When the Thargelia <sup>b</sup> came round, he conducted me to the altars and to the members of the families and ward. Now these bodies have a uniform rule, that when a man introduces his own son or an adopted son, he must swear with his hand upon the victims that the child whom he is introducing, whether his own or an adopted son, is the offspring of an Athenian mother and born in wedlock ; and, even after the introducer has done this, the other members still have to pass a vote, and, if their vote is favourable, they then, and not till then, inscribe him on the official register ; such is the exactitude with which their formalities are

<sup>b</sup> A festival celebrated on the 6th and 7th of the month of Thargelion (May to June).

## ISAEUS

δὴ<sup>1</sup> οὕτως ἔχοντος, καὶ τῶν φρατόρων τε καὶ γεννητῶν ἐκείνῳ οὐκ ἀπιστούντων ἐμέ τε οὐκ ἀγνοούντων, ὅτι ἦν ἐξ ἀδελφῆς αὐτῷ γεγονώς, ἐγγράφουσί με εἰς τὸ κοινὸν γραμματεῖον ψηφισάμενοι πάντες, ἐπιθέντος ἐκείνου τὴν πίστιν καθ' ἱερῶν. καὶ οὕτω μὲν ὑπὸ ζῶντος ἐποιήθην, καὶ εἰς τὸ κοινὸν γραμματεῖον ἐνεγράφην Θράσυλλος Ἀπολλοδώρου, ποιησαμένου με ἐκείνου τοῦτον τὸν τρόπον, τῶν νόμων αὐτῷ δεδωκότων. ὥς δ' ἀληθῆ λέγω, λαβέ μοι τὰς μαρτυρίας.

### ΜΑΡΤΥΡΙΑΙ

- 18 Οἶμαι τοίνυν, ὦ ἄνδρες, μᾶλλον ἂν ὑμᾶς τοῖς μεμαρτυρηκόσι πιστεύειν, εἰ καὶ τινες<sup>2</sup> τῶν ὁμοίως προσηκόντων ἔργοις φανερώς μεμαρτυρήκασιν ὥς ἐκείνος ταῦτα ὀρθῶς καὶ κατὰ τοὺς νόμους ἔπραξε. κατέλιπε γὰρ Εὐπόλις θυγατέρας δύο, ταύτην τε ἣ νῦν ἀμφισβητεῖ καὶ Προνάπει συνοικεῖ, καὶ ἄλλην ἣν ἔσχεν Αἰσχίνης ὁ Λουσιεύς, ἣ τετελεύτηκεν ὑὸν
- 19 ἄνδρα ἥδη καταλιποῦσα, Θρασύβουλον. ἔστι δὲ νόμος <ὅς>,<sup>3</sup> ἐὰν ἀδελφὸς ὁμοπάτωρ ἅπαις τελευτήσῃ καὶ μὴ διαθέμενος, τὴν τε ἀδελφὴν ὁμοίως, καὶ ἐξ ἐτέρας ἀδελφιδουῶς ἢ γεγονώς, ἰσομοίρους τῶν χρημάτων καθίστησι. καὶ τοῦτο οὐκ ἀγνοούμενόν ἐστιν οὐδὲ παρ' αὐτοῖς τούτοις. ἔργῳ γὰρ οὗτοι φανερόν τοῦτο πεποιήκασιν· τοῦ γὰρ Εὐπόλιδος υἱὸς ἅπαιδος Ἀπολλοδώρου τελευτήσαντος τὰ ἡμίσεα Θρασύβουλος εἴληφεν, οὐσίας καὶ
- 20 πεντεταλάντου καταλειφθείσης ῥαδίως. πατρῶων μὲν οὖν καὶ ἀδελφοῦ χρημάτων τὸ ἴσον αὐτοῖς ὁ

<sup>1</sup> δὴ Bekker: διὸ.

<sup>2</sup> εἰ καὶ τινες Bekker: καὶ οἵτινες.

<sup>3</sup> ὅς add. Aldus.

carried out. Such being the rule, the members of the families and of the ward having full confidence in Apollodorus and being well aware that I was his sister's son, passed an unanimous vote and inscribed my name in the public register, after Apollodorus had sworn with his hand upon the victims. Thus I was adopted by him in his lifetime and my name inscribed in the public register as Thrasyllus the son of Apollodorus, after he had adopted me in this manner, as the laws have given him the power to do. To prove that I am speaking the truth, please take the depositions.

#### DEPOSITIONS

I imagine, gentlemen, that you would more readily believe those who have given evidence, if certain of the relatives of the same degree as my opponent have obviously attested by their conduct that Apollodorus carried out the adoption in a correct and legal manner. Now Eupolis left two daughters, one who is the present claimant and the wife of Pronapes, and another whom Aeschines of Lusian married and who is dead, but left a son Thrasybulus, who is now of full age. There is a law which provides that, if a brother by the same father dies without issue and intestate, his property shall be divided equally between his surviving sister and any nephew who has been born from another sister. My opponents themselves are well aware of this, as their actual conduct has proved; for, Eupolis's son, Apollodorus (II.), having died without issue, Thrasybulus has received half his estate, which may fairly be estimated at five talents. Thus the law gives the sister and the sister's son an equal

## ISAEUS

νόμος μετασχεῖν δίδωσιν· ἀνεψιοῦ δέ, καὶ εἴ τις ἔξω ταύτης τῆς συγγενείας ἐστίν, οὐκ ἴσον, ἀλλὰ προτέροις τοῖς ἄρρεσι τῶν θηλειῶν τὴν ἀγχιστείαν πεποίηκε. λέγει γάρ “ κρατεῖν δὲ τοὺς ἄρρενας καὶ τοὺς ἐκ τῶν ἀρρένων, οἳ ἂν ἐκ τῶν αὐτῶν ὦσι, καὶ γένει ἀπωτέρω τυγχάνωσιν ὄντες.” ταύτη μὲν οὖν οὐδὲ<sup>1</sup> μέρους λαχεῖν προσῆκε, Θρασυβούλῳ δὲ ἀπάντων, εἰ μὴ κυρίαν ἡγεῖτο εἶναι τὴν ἐμὴν  
 21 εἰσποιήσιν. ἐκείνος τοίνυν οὔτε ἐξ ἀρχῆς ἡμφισβήτηκε πρὸς ἐμὲ οὐδὲν οὔτε νῦν δίκην εἴληχε περὶ αὐτῶν, ἀλλὰ ταῦτα πάντα καλῶς ἔχειν ὁμολόγηκεν· οἱ δ' ὑπὲρ ταύτης πάντων ἀμφισβητεῖν τετολμήκασιν· εἰς τοῦτο ἀναιδείας ἐληλύθασιν. λαβὲ δὴ αὐτοῖς τοὺς νόμους, παρ' οὓς ταῦτα πεποιήκασιν, καὶ ἀνάγνωθι.

### ΝΟΜΟΣ<sup>2</sup>

22 Ἐνταῦθα μὲν ὁμοίως καὶ ἀδελφῇ καὶ ἀδελφιδούῃς ἰσόμοιροι κατὰ τὸν νόμον εἰσὶ. λαβὲ δὴ καὶ τοῦτον, καὶ ἀναγίνωσκε αὐτοῖς.

### 〈ΝΟΜΟΣ〉

Ἐὰν μὴ ὦσιν ἀνεψιοὶ μηδὲ ἀνεψιῶν παῖδες, μηδὲ τοῦ πρὸς πατρός γένους<sup>3</sup> ἢ προσήκων μηδεῖς, τότε ἀπέδωκε τοῖς πρὸς μητρός, διορίσας οὓς δεῖ κρατεῖν. λαβὲ δὲ αὐτοῖς καὶ τοῦτον τὸν νόμον καὶ ἀνάγνωθι.

### ΝΟΜΟΣ

<sup>1</sup> οὐδὲ Aldus: οὐδέν.

<sup>2</sup> νόμος Aldus: νόμοι.

<sup>3</sup> γένους Dobree: γενομένου.

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<sup>a</sup> The law is given *in extenso* in [Dem.] *In Macartatum* (Or. xliii.) § 51.

share of their father's and their brother's estate ; but when a first cousin, or any other kinsman in a remoter degree, dies, it no longer grants such equality, but gives the male relatives the right of succession as next-of-kin in preference to the female. For it declares that "the males and the issue of the males, who are descended from the same stock, shall be preferred, even though their relationship to the deceased is more remote." The wife of Pronapes, therefore, had no right to claim a share at all, and Thrasybulus ought to have claimed the whole if he regarded my adoption as invalid. Yet from the first he has never disputed my title nor has he now made any claim at law to the estate, but has admitted that everything is in order. On the other hand, those who are acting for this woman have dared—such is their impudence—to claim the whole estate. Take the clauses of the law <sup>a</sup> which they have violated and read them to the court.

#### CLAUSE OF THE LAW

Under this clause the sister and the nephew share and share alike. Now take this clause and read it to the court.

#### CLAUSE OF THE LAW

If there are no first cousins or their children or other relatives on the father's side, then the law gives the right of inheritance to the relatives on the mother's side, specifying the order of succession. Now take this clause and read it to the court.

#### CLAUSE OF THE LAW

- 23 Ταῦτα τῶν νόμων κελευόντων ὁ μὲν ἀνὴρ ὢν οὐδὲ μέρους<sup>1</sup> εἴληχεν, οἱ δ' ὑπὲρ ταύτης, τῆς γυναικός, ἀπάντων· οὕτω τὴν ἀναίδειαν οὐδεμίαν ζημίαν εἶναι νομίζουσι. καὶ ὑπὲρ τούτων τολμήσουσι καὶ τοῖς λόγοις χρῆσθαι<sup>2</sup> τοιούτοις, ὡς αὐτοῖς ὅλου τοῦ κλήρου ληκτέον, ὅτι Θρασύβουλος ἐκποίητος εἰς τὸν οἶκον τὸν Ἱππολοχίδου γέγονε, λέγοντες τοῦτο μὲν ἀληθές, ἐκείνο δ' οὐ προσῆκον·
- 24 τί γὰρ ἦττον αὐτῷ τῆς συγγενείας ταύτης προσῆκεν; οὐ γὰρ κατὰ τὸν πατέρα ἀλλὰ κατὰ τὴν μητέρα καὶ τῶν Ἀπολλοδώρου τοῦ Εὐπόλιδος [66] ὑέος τὸ μέρος εἴληφε· καὶ τῶνδε ἐξῆν | αὐτῷ κατὰ ταύτην τὴν συγγένειαν λαγχάνειν, ὄντι προτέρῳ ταύτης, εἴπερ τὰ πεπραγμένα μὴ κυρίως ἔχειν
- 25 ἐνόμιζεν. ἀλλ' οὐκ ἔστιν ἀναίσχυντος. μητρὸς δ' οὐδεὶς ἐστιν ἐκποίητος, ἀλλ' ὁμοίως ὑπάρχει τὴν αὐτὴν εἶναι μητέρα, καὶ ἐν τῷ πατρώῳ μένη τις οἴκῳ καὶ ἐκποιηθῇ.<sup>3</sup> διὸ τῶν Ἀπολλοδώρου χρημάτων οὐκ ἀπεστερήθη τοῦ μέρους, ἀλλὰ μετελήφει τὸ ἡμικλήριον, πρὸς ταύτην νειμάμενος. ὡς δ' ἀληθῆ λέγω, κάλει μοι τούτων τοὺς μάρτυρας.

ΜΑΡΤΥΡΕΣ

- 26 Οὕτω μὲν οὐχ οἱ γεννῆται μόνον καὶ φράτορες γεγόνασι μάρτυρες τῆς ἐμῆς ποιήσεως, ἀλλὰ καὶ Θρασύβουλος οὐκ ἀμφισβητῶν αὐτὸς<sup>4</sup> ἔργῳ δε-

<sup>1</sup> μέρους Dobree: τὸ μέρος.

<sup>3</sup> ἐκποιηθῇ Bekker: -θείη.

<sup>2</sup> χρῆσθαι scripsi: χρῶνται.

<sup>4</sup> αὐτὸς Buermann: αὐτῷ.



Such being the provisions of the law, Thrasybulus, a male relative, has not claimed even a portion of the estate, but those who are acting for this woman, a female relative, have claimed the whole of it; so persuaded are they that loss of honour is no loss. With this object, to prove that the whole estate ought to be awarded to them, they will have the impudence to use the argument that Thrasybulus has been adopted out of his own family into that of Hippolochides. While the fact is true, the conclusion drawn from it does not apply. For what detriment was caused by this adoption to the bond of kinship which is in question? For it was not in the right of his father but in that of his mother that he has received half the estate of Apollodorus (II.), the son of Eupolis; and by this right of kinship he might have claimed the estate now in dispute, since he has a claim prior to that of this woman, if he thought that the act of adoption was not valid; he is not, however, so devoid of honour. Now the act of adoption into another family does not detach a son from his mother; she is his mother just the same, whether he remains in his father's house or is adopted out of it. That is why Thrasybulus was not deprived of his share of the fortune of Apollodorus (II.), but has received half of it, sharing it with this woman. And to prove that I am speaking the truth, please call the witnesses to these facts.

## WITNESSES

Thus not only have the members of the families and of the ward borne testimony to my adoption, but also Thrasybulus has made it clear, by his conduct in not himself claiming the estate, that he considers

## ISAEUS

δήλωκεν ὅτι τὰ πᾶπραγμένα Ἀπολλοδώρῳ κυρίως ἔχειν νομίζει καὶ κατὰ τοὺς νόμους· οὐ γὰρ ἄν ποτε τοσούτων χρημάτων οὐκ ἐλάγχανε. γεγόνασι  
 27 δὲ ὅμως καὶ ἄλλοι μάρτυρες αὐτῶν.<sup>1</sup> πρὶν γὰρ ἐμὲ ἦκειν ἐκ τῆς Πυθαϊδος, ἔλεγε πρὸς τοὺς δημότας Ἀπολλόδωρος ὅτι πεπονημένος εἶη με ὑὸν καὶ ἐγγεγραφὼς εἰς τοὺς συγγενεῖς καὶ φράτορας, καὶ παραδεδώκοι τὴν οὐσίαν, καὶ διεκελεύεθ' ὅπως, ἂν τι πάθῃ<sup>2</sup> πρότερον, ἐγγράψουσι<sup>3</sup> με εἰς τὸ ληξι-  
 28 ἀρχικὸν γραμματεῖον Θράσυλλον Ἀπολλοδώρου καὶ μὴ ὡς ἄλλως ποιήσουσι.<sup>4</sup> κακεῖνοι ταῦτα ἀκούσαντες, τούτων ἐν ἀρχαιρεσίαις κατηγορούντων καὶ λεγόντων ὡς οὐκ ἐποίησάτο με ὑόν, καὶ ἐξ ὧν ἤκουσαν καὶ ἐξ ὧν ἤδεσαν, ὁμόσαντες καθ' ἱερῶν ἐνέγραψάν με, καθάπερ ἐκεῖνος ἐκέλευε· τοσαύτη περιφάνεια τῆς ἐμῆς ποιήσεως ἐγένετο παρ' αὐτοῖς. ὡς δ' ἀληθῆ λέγω, κάλει μοι τούτων τοὺς μάρτυρας.

## ΜΑΡΤΥΡΕΣ

29 Ἐπὶ μὲν τοσούτων μαρτύρων, ὧ ἄνδρες, γέγονεν ἡ ποίησις, ἔχθρας μὲν παλαιᾶς αὐτῷ πρὸς τούτους οὔσης, φιλίας δὲ πρὸς ἡμᾶς καὶ συγγενείας οὐ μικρᾶς ὑπαρχούσης. ὡς δ' οὐδ' εἰ μηδέτερον τούτων ὑπῆρχε, μήτε ἔχθρα πρὸς τούτους μήτε φιλία πρὸς ἡμᾶς, οὐκ ἂν ποτε Ἀπολλόδωρος ἐπὶ

<sup>1</sup> αὐτῶν Scheibe: αὐτῷ.

<sup>2</sup> πάθῃ Schaefer: -οι.

<sup>3</sup> ἐγγράψουσι Dobree: -φουσι.

<sup>4</sup> ποιήσουσι Dobree: -ωσι.

<sup>a</sup> i.e., his adoption of the speaker.

<sup>b</sup> See Introduction, p. 247.

the acts of Apollodorus <sup>a</sup> to be valid and in conformity with the laws ; for otherwise he would not fail now to claim so large a fortune. But there have been other witnesses to these facts. For before my return from the Pythaid festival,<sup>b</sup> Apollodorus informed his fellow demesmen that he had adopted me as his son and had registered me with the members of the families and of the ward and had committed his property to my care, and he begged them, if anything should happen to him before my return, to enrol me on the public register as Thrasyllus the son of Apollodorus and not to fail him in the matter. Having heard this expression of his wishes, although our opponents complained at the electoral meeting of the deme and declared that Apollodorus had not adopted me, the members, as a result of what they had heard and from their own knowledge of the facts, took the oath over the victims and registered my name in accordance with Apollodorus's injunctions ; so notorious among them was the fact of my adoption. And to prove the truth of my statements, please call the witnesses to these facts.

## WITNESSES

It was before all these witnesses, gentlemen, that my adoption took place, at a time when an inveterate enmity existed between Apollodorus and my opponent, and a close friendship as well as kinship between Apollodorus and us. But it is, I think, quite easy to prove to you, that, even if he had had neither of these sentiments—enmity towards my opponents and affection towards us—Apollodorus would never have left his estate to them. All men,

30 τούτοις τὸν κλῆρον τοῦτον κατέλιπεν, οἶμαι καὶ  
 ταῦθ' ὑμῖν ῥαδίως ἐπιδείξειν. πάντες γὰρ οἱ  
 τελευτήσειν μέλλοντες πρόνοιαν ποιοῦνται σφῶν  
 αὐτῶν, ὅπως μὴ ἐξερημώσουσι τοὺς σφετέρους  
 αὐτῶν οἴκους, ἀλλ' ἔσται τις [καὶ] ὁ ἐναγιῶν  
 καὶ πάντα τὰ νομιζόμενα αὐτοῖς ποιήσων· διὸ  
 καὶ ἅπαιδες τελευτήσωσιν, ἀλλ' οὖν ποιησά-  
 μενοι καταλείπουσι. καὶ οὐ μόνον ἰδίᾳ ταῦτα  
 γινώσκουσιν, ἀλλὰ καὶ δημοσίᾳ τὸ κοινὸν τῆς  
 πόλεως οὕτω ταῦτ' ἔγνωκε· νόμῳ γὰρ τῷ ἄρχοντι  
 τῶν οἴκων, ὅπως ἂν μὴ ἐξερημῶνται, προστάττει  
 31 τὴν ἐπιμέλειαν. ἐκείνῳ δὲ πρόδηλον ἦν ὅτι εἰ  
 καταλείψει τὸν κλῆρον ἐπὶ τούτοις, ἔρημον ποιήσει  
 τὸν οἶκον, τί προορῶντι; ταύτας τὰς ἀδελφὰς τὸν  
 μὲν Ἀπολλοδώρου τοῦ ἀδελφοῦ κλῆρον ἐχούσας,  
 ἐκείνῳ δ' οὐκ εἰσποιούσας ὄντων αὐταῖς παίδων,  
 καὶ τοὺς μὲν ἄνδρας αὐτῶν τὴν γῆν, ἣν ἐκείνος  
 κατέλιπε, καὶ τὰ κτήματα πέντε ταλάντων πεπρα-  
 κότας καὶ τὸ ἀργύριον διανεϊμαμένους, τὸν δὲ  
 οἶκον αἰσchrῶς οὕτω καὶ δεινῶς ἐξερημωμένον.  
 32 ὃς δὲ ταῦτ' ἤδει τὸν τούτων ἀδελφὸν πεπονθότα,  
 πῶς ἂν προσεδόκησεν αὐτός, εἰ καὶ φίλος ἦν,  
 τυχεῖν τῶν νομιζομένων ὑπ' αὐτῶν, ἀνεψιὸς ὢν  
 ἀλλ' οὐκ ἀδελφὸς αὐταῖς; οὐκ ἐνῆν ἐλπίσαι  
 δήπουθεν. ἀλλὰ μὴν ὅτι ἅπαιδα ἐκείνον περι-  
 εωράκασι καὶ τὰ χρήματα ἔχουσι καὶ οἶκον ἐκ τοῦ  
 φανεροῦ τριηραρχοῦντα ἀνηγήκασι, κάλει μοι καὶ  
 τούτων τοὺς μάρτυρας.

when they are near their end, take measures of precaution on their own behalf to prevent their families from becoming extinct and to secure that there shall be someone to perform sacrifices and carry out the customary rites over them. And so, even if they die without issue, they at any rate adopt children and leave them behind. And there is not merely a personal feeling in favour of this course, but the state has taken public measures to secure that it shall be followed, since by law it entrusts the archon with the duty of preventing families from being extinguished. Now it was quite clear to Apollodorus that, if he left his estate in the hands of my opponents, he would be securing the extinction of his house. For what did he see before his eyes? He saw that these sisters of Apollodorus (II.) inherited their brother's estate, but never gave him a son by adoption, though they had sons of their own, and that their husbands had sold the landed property which he left behind him and his possessions for five talents and divided up the proceeds, but that his house had been left shamefully and deplorably desolate. Knowing that their brother had been treated thus, could he himself have ever expected, even if there had been friendship between him and them, to receive the customary rites from them, being only their cousin and not their brother? Surely he could have no such expectation. And now please summon the witnesses to show that my opponents have viewed with indifference their brother's childlessness, and are in possession of his fortune, and have allowed a family to die out which was obviously capable of supporting the expense of a trierarchy.

- 33 Εἰ τοίνυν καὶ τοιοῦτοι τὰς φύσεις περὶ ἀλλήλους  
εἰσὶ καὶ ἔχθραι πρὸς Ἀπολλόδωρον τὸν ἐμὲ ποιησά-  
μενον ὑπῆρχον αὐτοῖς<sup>1</sup> τηλικάυται τὸ μέγεθος, τί  
βέλτιον ἂν ἔπραξεν ἢ ταῦτα βουλευσάμενος ἅπερ  
ἐποίησεν; εἰ νῆ Δία παιδίον ἐποιήσατο λαβὼν  
παρά του τῶν<sup>2</sup> φίλων ὄντων, καὶ τούτῳ τὴν  
οὐσίαν ἔδωκεν; ἀλλὰ [καὶ] τοῦτ' ἦν ἄδηλον καὶ  
τοῖς γεννήσασιν, εἴτε σπουδαῖον εἴτε μηδενὸς ἄξιον  
34 ἔμελλεν ἔσεσθαι, διὰ τὴν ἡλικίαν. ἐμοῦ δὲ πείραν  
εἰλήφει, δοκιμασίαν ἱκανὴν λαβὼν. εἷς τε γὰρ  
[67] τὸν πατέρα καὶ τὴν μητέρα | οἷος ἦν ἀκριβῶς  
ἦδει, τῶν τ' οἰκείων ἐπιμελῇ καὶ τὰμαντοῦ πράτ-  
τειν ἐπιστάμενον· ἐν ἀρχῇ τε, θεσμοθετήσας, ὡς  
ἐγενόμην οὐκ ἄδικος οὐδὲ πλεονέκτης, ἡπίστατο  
σαφῶς. ὥστ' οὐκ ἀγνοῶν ἀλλὰ σαφῶς εἰδὼς  
35 ἐποίει με τῶν αὐτοῦ κύριον. καὶ μὴν οὐδὲ ἀλλό-  
τριον ἀλλ' ὄντα ἀδελφιδοῦν, οὐδ' αὖ μικρὰ πεπον-  
θῶς ἀλλὰ μεγάλα ἀγαθὰ ὑφ' ἡμῶν, οὐδ' αὖ ἀφιλό-  
τιμον, ὅς τὰ ὄντα ἀφανιεῖν<sup>3</sup> ἔμελλον ὥσπερ οὗτοι  
τὰ τοῦ κλήρου πεποιήκασιν, ἀλλὰ βουλευσόμενον  
καὶ τριηραρχεῖν καὶ πολεμεῖν καὶ χορηγεῖν καὶ  
πάνθ' ὑμῖν τὰ προσταττόμενα ποιεῖν, ὥσπερ  
36 κακεῖνος. καίτοι εἰ καὶ συγγενῆς καὶ φίλος καὶ  
εὐεργέτης καὶ φιλότιμος καὶ δεδοκιμασμένος ὑπ-  
ῆρχον τοιοῦτος εἶναι, τίς <ἂν><sup>4</sup> ἀμφισβητήσειε μὴ

<sup>1</sup> αὐτοῖς Reiske: αὐταῖς.

<sup>2</sup> παρά του τῶν Reiske: παρὰ τούτων.

<sup>3</sup> ἀφανιεῖν Cobet: ἀφιέναι.

<sup>4</sup> ἂν add. Bekker.

## WITNESSES

Since such was the disposition of the cousins towards one another and so grave the resentment towards Apollodorus who adopted me, how could he have done better than follow the course which he did? Would he, in Heaven's name, have done better if he had chosen a child from the family of one of his friends and adopted him and given him his property? But even such a child's own parents would not have known, owing to his youth, whether he would turn out a good man or worthless. On the other hand, he had had experience of me, having sufficiently tested me; he well knew what had been my behaviour towards my father and mother, my care for my relatives and my capacity for managing my own affairs. He was well aware that in my official capacity as thesmothete <sup>a</sup> I have been neither unjust nor rapacious. It was then not in ignorance, but with full knowledge, that he was making me master of his property. Further, I was no stranger but his own nephew; the services which I had rendered him were not unimportant but very considerable; he knew that I was not a man devoid of public spirit, who would be likely to squander his possessions, as my opponents have squandered the property which composes the estate, but that I should be anxious to act as a trierarch and go on service and act as choregus and do everything else that the state requires, as he himself had done. Since I was his kinsman, his friend, his benefactor, and a man of public spirit, and had been approved as such, who could maintain that my adoption was presided at the allotment of the magistrates and were responsible for revising the laws.

## ISAEUS

οὐκ ἀνδρὸς εἶναι φρονούντος εἶναι ταύτην τὴν ποιή-  
 σιν; ἐγὼ τοίνυν ἔν γε τῶν ὑπ' ἐκείνου δοκιμα-  
 σθέντων ἤδη πεποίηκα· γεγυμνασιάρχηκα γὰρ εἰς  
 Προμήθεια<sup>1</sup> τοῦδε τοῦ ἐνιαυτοῦ φιλοτίμως, ὥς οἱ  
 φυλέται πάντες ἴσασι. ὥς δ' ἀληθῆ λέγω, κάλει  
 μοι τούτων τοὺς μάρτυρας.

### ΜΑΡΤΥΡΕΣ

- 37 Τὰ μὲν ἡμέτερα δίκαια, καθ' ἃ προσηκόντως  
 ἔχειν φαμὲν τὸν κλῆρον, ταῦτ' ἐστίν, ὧ ἄνδρες·  
 δεόμεθα δ' ὑμῶν βοηθεῖν ἡμῖν καὶ ἔνεκα Ἀπολ-  
 λοδώρου καὶ ἔνεκα τοῦ ἐκείνου πατρός· οὐ γὰρ  
 ἀχρήστους αὐτοὺς εὐρήσετε πολίτας, ἀλλ' ὥς οἶόν  
 38 τ' εἰς τὰ ὑμέτερα προθυμοτάτους.<sup>2</sup> ὁ μὲν γὰρ  
 πατήρ αὐτοῦ τὰς τε ἄλλας ἀπάσας λητουργίας  
 λελητούργηκε, καὶ τριηραρχῶν τὸν πάντα χρόνον  
 διετέλεσεν, οὐκ ἐκ συμμορίας [τὴν ναῦν ποιησά-  
 μενος] ὥσπερ οἱ νῦν, ἀλλ' ἐκ τῶν αὐτοῦ δαπανῶν,  
 οὐδὲ δεύτερος αὐτὸς ὢν ἀλλὰ κατὰ μόνας, οὐδὲ  
 δύο ἔτη διαλιπὼν ἀλλὰ συνεχῶς, οὐδ' ἀφοσιού-  
 μενος ἀλλ' ὥς οἶόν τ' ἄριστα παρασκευαζόμενος.  
 ἀνθ' ὧν ὑμεῖς κακείνον ἐτιμᾶτε, μεμνημένοι τού-  
 των τῶν ἔργων, καὶ τὸν ὑὸν αὐτοῦ τῶν χρημάτων  
 ἀποστερούμενον ἐσώσατε, τοὺς ἔχοντας ἀποδοῦναι  
 39 τὰ ὄντ' αὐτῷ καταναγκάσαντες. καὶ μὴν καὶ  
 αὐτὸς Ἀπολλόδωρος οὐχ ὥσπερ Προνάπης ἀπ-  
 εγράψατο μὲν τίμημα μικρόν, ὥς ἱππάδα δὲ τελῶν

<sup>1</sup> Προμήθεια Meursius : προμήθειαν.

<sup>2</sup> προθυμοτάτους Stephanus : -τέρους.

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<sup>a</sup> The duty of a gymnasiarch at the festival of Prometheus was to provide a team to compete in the inter-tribal torch-race.



not the act of a man of sound judgement? Indeed, I have already performed one of those acts, the promise of which had won his approval; for I have acted as gymnasiarch<sup>a</sup> at the festival of Prometheus in the present year with a liberality which all my fellow-tribesmen acknowledge. Please call the witnesses to prove that these statements are true.

## WITNESSES

These, gentlemen, are the just grounds on which we claim that we are entitled to keep the estate; and we beseech you to help us for the sake of Apollodorus and his father, for you will find that they were useful citizens and as zealous as possible for your interests. His father not only performed all the other state services but also acted continuously as a trierarch, not contributing jointly with several others,<sup>b</sup> as is the practice nowadays, but bearing the expenses out of his own fortune, and not jointly with one other but by himself alone; nor did he intermit his duties for two years<sup>c</sup> but served continuously, not performing his duties in a perfunctory manner but providing the most perfect equipment. Wherefore, mindful of these services you honoured him and saved his son when he was being robbed of his fortune, forcing those who were in possession of his property to restore it. Again, Apollodorus himself did not, like Pronapes, assess his property below its value, but, paying taxes as a knight, aspired

<sup>b</sup> The system under which several citizens could jointly contribute to provide a trireme for the service of the state appears to have come into force about 357 B.C.; see Introduction, p. 247.

<sup>c</sup> *i.e.*, he did not avail himself of the period of exemption allowed by law,

ἄρχειν ἡξίου. τὰς ἀρχάς, οὐδὲ βία μὲν ἐζήτει τὰ  
 ἀλλότρι' ἔχειν, ὑμᾶς δ' ὥετο δεῖν μηδὲν ὠφελεῖν,  
 ἀλλὰ φανερά τὰ ὄντα καταστήσας ὑμῖν, ὅσα προσ-  
 τάττοιτε, πάνθ' ὑπηρετεῖ [φιλοτίμως] οὐδέν τ'  
 ἀδικῶν ἐκ τῶν ἑαυτοῦ φιλοτίμως ἐπειράτο ζῆν,  
 εἰς αὐτὸν μὲν τὰ μέτρια ἀναλίσκειν οἰόμενος δεῖν,  
 τὰ δ' ἄλλα τῇ πόλει περιποιεῖν, ἵνα ἐξαρκοίῃ πρὸς  
 40 τὰς δαπάνας. καὶ τούτων τίνα λητουργίαν οὐκ  
 ἐξελητούργησεν; ἢ τίνα εἰσφορὰν οὐκ ἐν πρώτοις  
 εἰσῆνεγκεν; ἢ τί παραλέλοιπεν ὧν προσῆκεν; ὅς  
 γε καὶ παιδικῶ χορῶ χορηγῶν ἐνίκησεν, ὧν  
 μνημεῖα τῆς ἐκείνου φιλοτιμίας ὁ τρίπους ἐκείνος  
 ἔστηκε. καίτοι τί χρὴ τὸν μέτριον πολίτην; οὐχ  
 οὐ μὲν ἕτεροι τὰ μὴ προσήκοντ' ἐβιάζοντο λαμ-  
 βάνειν, τούτων μηδὲν ποιεῖν, τὰ δ' ἑαυτοῦ πειρά-  
 σθαι σώζειν; οὐ δ' ἡ πόλις δεῖται χρημάτων, ἐν  
 πρώτοις εἰσφέρειν καὶ μηδὲν ἀποκρύπτεσθαι τῶν  
 41 ὄντων; ἐκείνος τοίνυν τοιοῦτος ἦν· ἀνθ' ὧν δι-  
 καίως ἂν αὐτῶ ταύτην τὴν χάριν ἀποδοίητε, τὴν  
 ἐκείνου γνώμην περὶ τῶν αὐτοῦ κυρίαν εἶναι ποιή-  
 σαντες. καὶ μὴν καὶ ἐμέ γε, ὅσα κατὰ τὴν ἐμὴν  
 ἡλικίαν, εὐρήσετε οὐ κακὸν οὐδὲ ἄχρηστον. ἐστρά-  
 τευμαι τὰς στρατείας<sup>1</sup> τῇ πόλει, τὰ προσταττό-  
 μενα ποιῶ· τοῦτο γὰρ τῶν τηλικούτων ἔργον ἐστί.  
 42 καὶ ἐκείνων οὖν ἕνεκα καὶ ἡμῶν εἰκότως ἂν

<sup>1</sup> τὰς στρατείας Scaliger : ταῖς στρατείαις.

to hold the offices open to that rank, nor did he seek to possess himself by violence of the property of others and think that you ought to have no advantage from his wealth, but he openly declared the amount of his fortune and met whatever demands for service you made upon him, and wronging no man he tried to live honourably on his own fortune, considering that he ought to be moderate in his personal expenditure and dedicate the surplus to the service of the state, so that it might meet its expenses. As a result of these principles, what public service did he fail perfectly to discharge? To what war-tax was he not among the first to contribute? What duty has he ever failed to perform? When he undertook the provision of a choir of boys, he was victorious in the competition, and the well-known tripod still stands as a memorial of his honourable ambition. And what is the duty of a respectable citizen? Was it not his duty, while others were trying to take by force what did not belong to him, to do no such thing himself but to try and preserve what was his own? Is it not his duty, when the state needs money, to be among the first to contribute and not to conceal any part of his fortune? Such then was Apollodorus; and you would make a just return for his services if you ratified his intentions as to the disposal of his own property. As for myself, you will find me, as far as my youth allows, neither a bad nor a useless citizen. I have served on your military expeditions, I perform all the duties which are laid upon me; for this is the function of men of my age. For the sake, then, of Apollodorus and his father and for the sake of me and my family you would be justified in considering our case with

ποιήσαισθε<sup>1</sup> πρόνοιαν, ἄλλως τε καὶ τούτων τριηραρχοῦντα οἶκον πεντετάλαντον ἀνηρηκότων καὶ πεπρακότων καὶ ἔρημον πεποιηκότων, ἡμῶν δὲ καὶ λελητουργηκότων ἤδη καὶ λητουργησόντων, ἂν ὑμεῖς ἐπικυρώσητε τὴν Ἀπολλοδώρου γνώμην ἀποδόντες ἡμῖν τοῦτον τὸν κλῆρον.

- 43 Ἴνα δὲ μὴ δοκῶ διατρίβειν περὶ ταῦτα ποιούμενος τοὺς λόγους, βούλομαι διὰ βραχέων ὑμᾶς ὑπομνήσας οὕτω καταβαίνειν, τί ἐκάτερος ἡμῶν ἀξιοῖ, δηλώσας. ἐγὼ μὲν ἀδελφῆς οὔσης τῆς ἐμῆς  
 [68] | μητρὸς Ἀπολλοδώρῳ, φιλίας αὐτοῖς πολλῆς ὑπαρχούσης, ἔχθρας δ' οὐδεμιᾶς πώποτε γενομένης, ἀδελφιδουῶν καὶ ποιηθεὶς υἱὸς ὑπ' ἐκείνου ζῶντος καὶ εὖ φρονούντος, καὶ εἰς τοὺς γεννήτας καὶ φράτορας ἐγγραφείς, ἔχειν τὰ δοθέντα, καὶ μὴ ἐπὶ τούτοις <εἶναι><sup>2</sup> ἐξερημῶσαι τὸν οἶκον τὸν ἐκείνου. Προνάπης δὲ τί ὑπὲρ τῆς ἀμφισβητούσης;  
 44 ἔχειν μὲν τοῦ τῆς γυναικὸς ἀδελφοῦ τιμὴν τοῦ ἡμικληρίου πένθ' ἡμιτάλαντα, λαβεῖν δὲ καὶ τόνδε τὸν κλῆρον ἐτέρων ταῖς ἀγχιστείαις προτέρων αὐτοῦ τῆς γυναικὸς ὄντων, οὗτ' ἐκείνῳ παῖδα εἰσπεποιηκῶς ἀλλὰ τὸν οἶκον ἐξερημωκῶς, οὔτε<sup>3</sup> τούτῳ ἂν εἰσποιήσας, ἀλλ' ὁμοίως ἂν καὶ τοῦτον ἐξερημώσας, καὶ ἔχθρας μὲν τηλικαύτης ὑπαρχούσης αὐτοῖς, διαλλαγῆς δὲ οὐδεμιᾶς πώποτε ὕστερον γενομένης. ταῦτα χρὴ σκοπεῖν, ὦ ἄνδρες, κακὲν ἐνθυμείσθαι, ὅτι ἐγὼ μὲν ἀδελφιδουῶς αὐτῷ,

<sup>1</sup> ποιήσαισθε Bekker: -ησθε.

<sup>2</sup> εἶναι add. Reiske.

<sup>3</sup> οὔτε Bekker: οὐδὲ.

benevolence, especially since our adversaries have made away with and sold an estate that supported the trierarchy and reduced it to desolation, whereas we have already supported public burdens and will continue to do so in the future, if you ratify the intentions of Apollodorus by restoring to us this estate.

But, in order that I may not seem tedious by dwelling any longer on these facts, I should like, before I step down, to lay before you, by way of brief reminder, the points on which each party bases its claim. My mother was Apollodorus's sister, and a close affection, never interrupted by any quarrel, existed between them; being his nephew and having been adopted by him as his son during his lifetime and when he was in full possession of his faculties, and having been registered with the members of the families and of the ward, I claim to possess the estate which he gave me and demand that my opponents should not be in a position to make his house desolate. What does Pronapes claim on behalf of the plaintiff? He claims to keep half of the estate of his wife's brother, valued at two-and-a-half talents, and also to receive this estate, although there are others more nearly related to the deceased than his wife; yet he has not given him a son by posthumous adoption but has left his house desolate, and he would similarly fail to give Apollodorus a son by adoption and would leave his house likewise desolate; and he makes this claim although such enmity existed between them and no subsequent reconciliation took place. You must take these facts into consideration, gentlemen, and remember that I am the nephew of the deceased,

ἡ δὲ ἀνειψιὰ τοῦ τελευτήσαντος, καὶ ὅτι ἡ μὲν δύ' ἔχειν ἀξιοῖ κλήρους, ἐγὼ δὲ τοῦτον μόνον εἰς ὄνπερ εἰσεποιήθην, καὶ ὅτι αὕτη μὲν οὐκ εὖνους τῷ καταλιπόντι τὸν κλῆρον, ἐγὼ δὲ καὶ ὁ ἐμὸς πάππος εὐεργέται γεγόναμεν αὐτοῦ. ταῦτα πάντα σκεψάμενοι καὶ διαλογιζόμενοι πρὸς ὑμᾶς αὐτοὺς τίθεσθε τὴν ψῆφον ἣ δίκαιόν ἐστι.

Οὐκ οἶδ' ὅτι δεῖ πλείω λέγειν· οἶμαι γὰρ ὑμᾶς οὐδὲν ἀγνοεῖν τῶν εἰρημένων.

while the plaintiff is only his cousin ; that she claims two estates, I claim only one, to which I have a right by adoption ; that she was not on good terms with him who left the property, whereas I and my grandfather have been his benefactors. Having considered all these points and weighing them in your own minds, give your verdict in accordance with justice.

I do not know of anything more that I need say ; for I think that no part of my argument has escaped your attention.



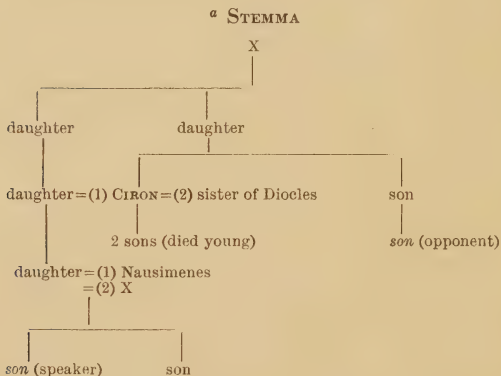


VIII. ON THE ESTATE OF CIRON

## VIII. ON THE ESTATE OF CIRON

### INTRODUCTION

CIRON having died without leaving a son, two claimants contested his estate. One was the son of his brother ; the other claimed to be the son of his daughter, and is the speaker of the present oration.<sup>a</sup> CIRON had been twice married. By his first wife, who was also his first cousin, he had, according to the speaker, a daughter, who married, firstly, Nausimenes, by whom she had no issue,



## ON THE ESTATE OF CIRON

and after his death a second husband, whose name is not given, by whom she had two sons, the present speaker and his brother. Secondly, Ciron had married the sister of Diocles of Phlya, by whom he had two sons, who died in infancy. Both claimants had presented themselves at the house of the deceased as soon as he had died, eager to carry out the funeral rites and so establish a claim to be the heir; and an unseemly wrangle seems to have occurred at the grave-side.

It is clear from the speech that the opposing party, whose speech was delivered first, had based his claim on the grounds, first, that the speaker's mother was not a legitimate daughter of Ciron, and, secondly, that even if she were legitimate, a brother's son has a better claim in law than a daughter's son.

On the first point the speaker finds it difficult to produce any convincing arguments. He can only furnish hearsay evidence of Ciron's first marriage, which must have taken place some forty years earlier, and the birth of a daughter. He relies, therefore, in the main on the conduct of Ciron towards his daughter, showing that he formally betrothed her to both her husbands, giving a marriage feast and entertaining the members of his ward, and on the fact that he and his brother were duly enrolled in their father's ward without any objection being raised. He further states that his grandfather Ciron had frequently taken himself and his brother with him to public festivals and had invited them to his domestic sacrifices. He seeks support for such evidence as he can produce by pointing out that his opponents have

## ISAEUS

refused to allow the slaves of Ciron, who might be supposed to know the facts better than anyone else, to be examined under torture, and draws the conclusion that his opponents feared that the evidence of the slaves would be unfavourable to their case.

The speaker next deals with the second argument of his opponents and contends that descendants have a stronger claim to an intestate estate than collaterals. He takes the case of the nearest collateral, namely, a brother, and argues that a daughter's child has a better claim to his grandfather's estate than the grandfather's brother, and therefore, *a fortiori*, a better claim than a nephew. He supports his argument by citing the law under which descendants are obliged to support their indigent parents and grandparents, an obligation which does not apply to collaterals; if, he argues, a man is legally bound to support his grandfather, he has a corresponding right to inherit his intestate estate.

The last division of the speech is devoted to detailing the misdeeds of Diocles, who is alleged to be the real instigator of the counter-claim, the nominal opponent being merely a man of straw. He is represented as having defrauded his sister and his nephew, as having murdered one brother-in-law and having caused the other to be deprived of his civic rights, and as a man of notoriously evil life. He is alleged to have obtained possession by fraud of Ciron's estate during his lifetime, and now, being afraid of having to give it up, to have stated that Ciron left nothing at all, though at the same time he was instigating his nephew to claim the

## ON THE ESTATE OF CIRON

estate. He promises further revelations in a prosecution which is still pending against Diocles.<sup>a</sup>

The date of the present speech, which is one of the best arranged and best argued of the extant orations of Isaeus, can be fixed within rather wide limits. Since Ciron's grandsons were born after the archonship of Eucleides in 403 B.C. (§ 43), and were certainly more than twenty years of age at the time of the speech, the date cannot be earlier than 383 B.C. : on the other hand, it cannot be later than 363 B.C., since certain passages in it are borrowed by his pupil Demosthenes in his speeches against guardians, Aphobus and Onetor, which were delivered in that and the following year.<sup>b</sup>

<sup>a</sup> We should know more about Diocles if we possessed the two speeches known to have been written against him by Isaeus, of which only insignificant fragments have survived, for which see pp. 449-50.

<sup>b</sup> See Introduction, p. ix.

## VIII. ΠΕΡΙ ΤΟΥ ΚΙΡΩΝΟΣ ΚΛΗΡΟΥ

### ΥΠΟΘΕΣΙΣ

Κίρωνος ἄπαιδος γνησίων τελευτήσαντος παίδων ἀδελφιδούς τις αὐτοῦ κατὰ πατέρα ἀντιποιηθεὶς τοῦ κλήρου παρέλαβε τὴν οὐσίαν αὐτοῦ παρὰ τῆς γυναικός· καὶ μετὰ ταῦτα ὁ λέγων τὸν λόγον γράφεται τὸν ἀδελφιδοῦν, φάσκων θυγατριδοῦς εἶναι Κίρωνος, καὶ ὅτι ἡ γυνὴ τοῦ τετελευτηκότος ἐκούσα προέδωκε τὸν κλῆρον τῷ ἀδελφιδῷ, ἵνα μέρος δοῦσα αὐτῷ τὰ λοιπὰ κερδάνῃ. καὶ ἡ μὲν ὑπόθεσις αὕτη, ἡ στάσις δὲ στοχασμός· ζητεῖται γὰρ εἴτε θυγατριδοῦς ἐστὶν οὗτος τοῦ Κίρωνος γνήσιος εἴτε οὐ. ἐπιπλέκεται δ' αὐτῷ καὶ ἡ κατὰ ποιότητα ζήτησις. ὁ γὰρ ἀδελφιδοῦς ἠγωνίζετο, λέγων ὅτι εἰ καὶ δώμεν ἐκείνην γνησίαν εἶναι θυγατέρα Κίρωνος, ἐπειδὴ ἐτελεύτησεν ἐκείνη, ὁ δ' υἱὸς αὐτῆς ἀμφισβητεῖ νῦν, προτιμητέος ἐστὶν ὁ κατὰ πατέρα ἀδελφιδοῦς τοῦ ἀπὸ θυγατρὸς ἐκγόνου, κατὰ τὸν νόμον ἐκείνον, τὸν κελεύοντα προτιμᾶσθαι τοὺς ἀπὸ τῶν ἀρρένων τῶν ἀπὸ τῶν θηλειῶν. οὗτος γὰρ τεχνικώτατα πάνυ σιωπήσας τοῦτον τὸν νόμον, ἐκ τῆς τῶν τεκόντων διαφορᾶς ἀγωνίζεται, δεικνὺς ὅτι ὅσον θυγάτηρ ἀδελφοῦ οἰκειοτέρα τοῖς τελευτῶσι, τοσοῦτον ἐκγονος ἀδελφιδοῦ διαφέρει. ἔρρωται οὖν ἐνταῦθα τῷ δικαίῳ καὶ ἀσθενεὶ τῷ νομίμῳ· τὴν δὲ ἐργασίαν τῶν κεφαλαίων κατὰ τὴν οἰκίαν πάλιν ἐργάζεται δύναμιν.

1 Ἐπὶ τοῖς τοιούτοις, ὧ ἄνδρες, ἀνάγκη ἐστὶ χαλε-

## VIII. ON THE ESTATE OF CIRON

### ARGUMENT

Ciron having died without legitimate offspring, his nephew, the son of his brother, claimed his estate and took over the property from the widow. After this the speaker of the present oration indicts the nephew, alleging that he himself is a son of Ciron's daughter and that the wife of the deceased designedly handed over the estate to the nephew with the intention of giving him a part and appropriating the remainder. Such is the subject; the discussion turns on a question of fact, the point at issue being whether the claimant is a legitimate grandson of Ciron or not. A further question is also involved, namely, one of qualification: for the nephew argued that, even if we grant that his opponent's mother is a legitimate daughter of Ciron, since she is dead and it is her son who now claims, the nephew, the son of a brother, ought to have preference over a daughter's issue under the law which ordains that the descendants of males have precedence over those of females. The speaker with great skill completely ignores this law and bases his case upon the different qualifications of the parents, showing that, in as much as a daughter is nearer in kin to the deceased than a brother, so her son has a stronger claim than a brother's son. It is a strong case in equity but a weak case in law. The working out of the various topics is carried out with Isaeus's usual skill.

It is impossible, gentlemen, not to feel indignation

πῶς φέρειν, ὅταν τινὲς μὴ μόνον τῶν ἀλλοτρίων  
 ἀμφισβητεῖν τολμῶσιν, ἀλλὰ καὶ τὰ ἐκ τῶν νόμων  
 δίκαια τοῖς σφετέροις αὐτῶν λόγοις ἀφανιεῖν<sup>1</sup> ἐλπί-  
 ζωσιν· ὅπερ καὶ νῦν οὗτοι ποιεῖν ἐγχειροῦσι. τοῦ  
 γὰρ ἡμετέρου πάππου Κίρωνος οὐκ ἄπαιδος τελευ-  
 τήσαντος, ἀλλ' ἡμᾶς ἐκ θυγατρὸς αὐτοῦ γνησίας  
 παῖδας αὐτῷ καταλελοιπότος, οὗτοί τοῦ τε<sup>2</sup> κλήρου  
 λαγχάνουσιν ὡς ἐγγυτάτῳ γένους ὄντες, ἡμᾶς τε  
 ὑβρίζουσιν ὡς οὐκ ἐξ ἐκείνου θυγατρὸς ὄντας, οὐδὲ<sup>3</sup>  
 2 γενομένης αὐτῷ πώποτε τὸ παράπαν. αἴτιον δὲ  
 τοῦ ταῦτα ποιεῖν αὐτοὺς ἐστίν ἢ τούτων πλεον-  
 εξία <καὶ><sup>4</sup> τὸ πλήθος τῶν χρημάτων ὧν Κίρων  
 μὲν καταλέλοιπεν, οὗτοι δ' ἔχουσι βιασάμενοι καὶ  
 κρατοῦσι· καὶ τολμῶσιν ἅμα μὲν λέγειν ὡς οὐδὲν  
 καταλέλοιπεν ἐκείνος, ἅμα δὲ ποιεῖσθαι τοῦ κλή-  
 3 ρου τὴν ἀμφισβήτησιν. τὴν μὲν οὖν κρίσιν οὐ δεῖ  
 μοι νομίζειν εἶναι ταύτην πρὸς τὸν εἰληχότα τοῦ  
 κλήρου τὴν δίκην, ἀλλὰ πρὸς Διοκλέα τὸν Φλυέα,  
 [69] τὸν Ὀρέστην ἐπικαλούμενον· οὗτος γάρ ἐστιν | ὁ  
 τοῦτον παρασκευάσας πράγμαθ' ἡμῖν παρέχειν,  
 ἀποστερῶν τὰ χρήματα ἃ Κίρων ὁ πάππος ἀπο-  
 θνήσκων κατέλιπεν, ἡμῖν δὲ τούτους τοὺς κινδύ-  
 νους ἐπάγων, ἵνα μηδὲν ἀποδιδῶ τούτων, ἐὰν  
 ὑμεῖς ἐξαπατηθῆτε πεισθέντες ὑπὸ τῶν τούτου  
 4 λόγων. δεῖ δὴ τούτων τοιαῦτα μηχανωμένων  
 πάνθ' ὑμᾶς τὰ πεπραγμένα μαθεῖν, ἵνα μηδὲν  
 ἀγνοήσαντες τῶν γεγεννημένων ἀλλὰ σαφῶς εἰδότες  
 περὶ αὐτῶν, οὕτως ἐνέγκητε<sup>5</sup> τὴν ψῆφον. εἴ τιτι  
 οὖν καὶ ἄλλη πώποτε δίκη προσέσχετε<sup>6</sup> ἀκριβῶς

<sup>1</sup> ἀφανιεῖν Baiter : ἀφανίζειν.

<sup>2</sup> τοῦ τε Reiske : τε τοῦ.

<sup>3</sup> οὐδὲ Reiske : οὐτε.

<sup>4</sup> καὶ add. Reiske.

<sup>5</sup> ἐνέγκητε Aldus : -οιτε.

<sup>6</sup> προσέσχετε Aldus : -έχετε.



## ON THE ESTATE OF CIRON, 1-4

against men who not only have the impudence to claim the property of others but also hope by their arguments to abolish the rights which the laws confer; and this is what our opponents are now trying to do. For, though our grandfather Ciron did not die childless but has left us behind him, the sons of his legitimate daughter, yet our opponents claim the estate as next-of-kin and insult us by alleging that we are not the issue of his daughter, and indeed that he never had a daughter at all. The reason of their acting thus is their avarice, and the high value of the estate which he has left behind him and which they have taken by force and still hold; and they have the impudence both to assert that he has left nothing and at the same time to lay claim to the estate. Now you must not imagine that my real opponent in this case is the man who has brought the suit claiming the estate; no, it is Diocles of Phlya, surnamed Orestes.<sup>a</sup> He it is who has suborned our opponent to cause us trouble by trying to deprive us of the fortune which our grandfather left us at his death and exposing us to these dangers, in order that he may not have to give back any of it, if you listen to him and are misled by his words. Such being their machinations, you must be informed of all the facts, in order that, being well aware of all that has happened, you may give your verdict with perfect knowledge of them. If, therefore, you have ever listened with

<sup>a</sup> An Orestes, son of Timocrates, is said to have been a notorious footpad; hence the name is applied to any violent character. Cf. Aristoph. *Acharnians*, 1166,

τὸν νοῦν, δέομαι ὑμῶν καὶ ταύτῃ προσέχειν ὁμοίως, ὥσπερ καὶ τὸ δίκαιόν ἐστι. πολλῶν δὲ δικῶν ἐν τῇ πόλει γενομένων, οὐδένας ἀναιδέστερον τούτων οὐδὲ καταφανέστερον ἀντιποιησάμενοι φανήσονται  
 5 τῶν ἀλλοτρίων. ἔστι μὲν οὖν χαλεπὸν, ὦ ἄνδρες, πρὸς παρασκευὰς λόγων καὶ μάρτυρας οὐ τάληθῇ μαρτυροῦντας εἰς ἀγῶνα καθίστασθαι περὶ τηλικούτων, παντάπασιν ἀπείρως ἔχοντα δικαστηρίων· οὐ μὴν ἀλλὰ πολλὰς ἐλπίδας ἔχω καὶ παρ' ὑμῶν τεύξεσθαι τῶν δικαίων καὶ μέχρι γε τοῦ τὰ δίκαια εἰπεῖν καὶ αὐτὸς ἀρκούντως ἐρεῖν, ἂν μὴ τι συμβῇ τοιοῦτον ὃ νῦν ὑπ' ἐμοῦ τυγχάνει προσδοκώμενον. δέομαι οὖν ὑμῶν, ὦ ἄνδρες, μετ' εὐνοίας τέ μου ἀκοῦσαι, καὶ ἡδικῆσθαι δοκῶ, βοηθῆσαί μοι τὰ δίκαια.

6 Πρῶτον μὲν οὖν, ὥς ἦν ἡ μήτηρ ἡ 'μὴ Κίρωνος θυγάτηρ γνησία, ἐπιδείξω τοῦτο ὑμῖν, τὰ μὲν πάλαι<sup>1</sup> γεγενημένα λόγων ἀκοῇ καὶ μαρτύρων, τὰ δ' ὥστε καὶ μνημονεύεσθαι, τοῖς εἰδόσι χρώμενος μάρτυσιν, ἔτι δὲ τεκμηρίοις ἃ κρείττω τῶν μαρτυριῶν ἐστίν· ἐπειδὰν δὲ ταῦτα φανερὰ καταστήσω, τόθ' ὥς καὶ κληρονομεῖν μᾶλλον ἡμῖν ἢ τούτοις<sup>2</sup> προσήκει τῶν Κίρωνος χρημάτων. ὅθεν οὖν ἤρξαντο περὶ αὐτῶν, ἐντεῦθεν ὑμᾶς καὶ γὰρ πειράσομαι διδάσκειν.

7 Ὁ γὰρ πάππος ὁ ἐμός, ὦ ἄνδρες, Κίρων ἔγνημε τὴν ἐμὴν τήθην οὔσαν ἀνεψιάν, ἐξ ἀδελφῆς τῆς αὐτοῦ μητρὸς αὐτὴν γεγενημένην. ἐκείνη μὲν οὖν συνοικήσασα οὐ πολὺν χρόνον, τεκοῦσα αὐτῷ τὴν ἐμὴν μητέρα, μετὰ ἐνιαυτοὺς τέτταρας<sup>3</sup> τὸν βίον

<sup>1</sup> πάλαι Stephanus: παλαιά.

<sup>2</sup> τούτοις Scheibe: τοῦτον.

<sup>3</sup> τέτταρας (ἰ.ε. δ') Dobree: τριάκοντα (ἰ.ε. λ'). ¶

## ON THE ESTATE OF CIRON, 4-7

scrupulous attention to any other case, I beg you to give like attention to this case, as indeed justice demands. Though lawsuits abound in our city, yet it will be shown that no parties have ever claimed the property of others with greater impudence and effrontery than my opponents. It is a difficult task therefore, gentlemen, for one who is wholly without experience of litigation, when such important interests are at stake, to contend against fabricated stories and witnesses whose evidence is false; yet I have great hopes that I shall obtain my rights from you, and that I shall myself speak sufficiently well at least to state what those rights are, unless some such chance should befall me as it is now my lot to anticipate.<sup>a</sup> I beg you, therefore, gentlemen, to listen to me with goodwill, and, if I seem to have been wronged, to aid me to obtain my rights.

First, then, I shall prove to you that my mother was Ciron's legitimate daughter; for events which have happened long ago I shall rely on report and statements which have been heard by witnesses, while for events within living memory I shall employ witnesses who know the facts, and proofs which are better than any evidence. When I have established this, I shall then show that we have a better claim to Ciron's estate than our opponents. Starting, therefore, from the point at which they began their narrative of the events, I, too, shall try and put my version before you.

My grandfather Ciron, gentlemen, married my grandmother, his first cousin, herself the daughter of his own mother's sister. She did not live long with him; she bore my mother, and died after four

<sup>a</sup> The allusion is obscure.

ἐτελεύτησεν· ὁ δὲ πάππος μιᾶς μόνης οὔσης αὐτῷ  
 θυγατρὸς λαμβάνει πάλιν τὴν Διοκλέους ἀδελφὴν,  
 ἐξ ἧς αὐτῷ ἐγγινέσθην<sup>1</sup> υἱεὶς δύο. καὶ ἐκείνην τε  
 8 ἔτρεφε παρὰ τῇ γυναικὶ καὶ μετὰ τῶν ἐξ ἐκείνης  
 παίδων, ἐκείνων τε ἔτι ζώντων, ἐπεὶ συνοικεῖν εἶχεν  
 ἡλικίαν, ἐκδίδωσιν αὐτὴν Ναυσιμένει Χολαργεῖ,  
 σὺν ἱματίοις καὶ χρυσίοις πέντε καὶ εἴκοσι μνᾶς  
 ἐπιδούς. καὶ κεῖνος μὲν τρισὶν ἢ τέτταρσιν ἔτεσι  
 μετὰ ταῦτα καμὼν<sup>2</sup> ἀποθνήσκει, πρὶν αὐτῷ γενέ-  
 σθαι παῖδας ἐκ τῆς ἡμετέρας μητρός· ὁ δὲ πάππος  
 κοιμισάμενος αὐτὴν, καὶ τὴν προῖκα οὐκ ἀπολαβὼν  
 ὅσῃν ἔδωκε διὰ τὴν Ναυσιμένους ἀπορίαν τῶν  
 πραγμάτων, πάλιν ἐκδίδωσι τῷ ἐμῷ πατρὶ καὶ  
 9 χιλίας δραχμὰς προῖκ' ἐπιδίδωσι.<sup>3</sup> ταυτὶ δὴ πάντα  
 πρὸς τὰς αἰτίας, ἃς νῦν οὗτοι λέγουσι, πῶς ἂν τις  
 δείξειε γεγεννημένα φανερώς; ἐγὼ ζητῶν ἐξεῦρον.  
 ἀνάγκη τὴν ἐμὴν μητέρα, εἴτε θυγάτηρ ἦν Κίρωνος  
 εἴτε μή, καὶ εἰ παρ' ἐκείνῳ διητᾶτο ἢ οὐ, καὶ  
 γάμους εἰ διττοὺς ὑπὲρ ταύτης εἰστίασεν ἢ μή,  
 καὶ προῖκα ἦντινα ἐκάτερος ἐπ' αὐτῇ τῶν γημάν-  
 των ἔλαβε, πάντα ταῦτα εἰδέναι τοὺς οἰκέτας καὶ  
 10 τὰς θεραπαίνας ἃς ἐκεῖνος ἐκέκτητο. βουλόμενος  
 οὖν πρὸς τοῖς ὑπάρχουσι μάρτυσιν ἔλεγχον ἐκ  
 βασάνων ποιήσασθαι περὶ αὐτῶν, ἵνα μᾶλλον  
 αὐτοῖς πιστεύητε μὴ μέλλουσι δώσειν ἔλεγχον ἄλλ'  
 ἢ ὅδη δεδωκόσι περὶ ὧν μαρτυροῦσι, τούτους ἡξίου  
 ἐκδοῦναι τὰς θεραπαίνας καὶ τοὺς οἰκέτας περὶ τε

<sup>1</sup> ἐγγινέσθην M, Scheibe: γινέσθην.

<sup>2</sup> καμὼν Boekmeijer: κάμνων. <sup>3</sup> ἐπιδίδωσι Reiske: ἀποδ-.

<sup>a</sup> Slaves could give evidence only under torture.

<sup>b</sup> If the slaves confirmed the evidence of his witnesses, the latter would come forward to give evidence in court

## ON THE ESTATE OF CIRON, 7-10

years. My grandfather, being left with an only daughter, married the sister of Diocles as his second wife, who bore him two sons. He brought up his daughter in the house with his wife and her children, and while the latter were still alive, he gave her in marriage, when she reached the proper age, to Nausimenes of Cholargus, giving her a dowry of twenty-five minae including raiment and jewelry. Three or four years later Nausimenes fell ill and died without leaving any issue by our mother. My grandfather received her back again—without, however, recovering the dowry which he had given, owing to the embarrassed condition of Nausimenes' affairs—and gave her in a second marriage to my father with a dowry of one thousand drachmae. How is one to prove clearly that all these events occurred in face of the imputations which our opponents are now uttering? I sought and discovered a way. Whether my mother was or was not the daughter of Ciron, whether she lived in his house or not, whether he did or did not on two occasions give a feast in honour of her marriage, and what dowry each of her husbands received with her—all these things must necessarily be known to the male and female slaves who belonged to Ciron. Wishing, therefore, in addition to the witnesses which I already had, to obtain proof of these facts by evidence given under torture<sup>a</sup>—in order that the veracity of my witnesses might be tested before, and not after, they gave their evidence, and so your belief in them might be confirmed<sup>b</sup>—I demanded that our opponents should surrender the male and

with a presumption already established that the evidence which they were going to give was true.

τούτων καὶ περὶ τῶν ἄλλων ἀπάντων ὅσα τυγ-  
 11 χάνουσι συνειδότες. οὗτος δ' ὁ νῦν ὑμᾶς ἀξιώσων  
 τοῖς αὐτοῦ μάρτυσι πιστεύειν ἔφυγε τὴν βάσανον.  
 καίτοι εἰ φανήσεται ταῦτα ποιῆσαι μὴ θελήσας, τί  
 ὑπολείπεται τοῖς ἐκείνου μάρτυσιν ἢ δοκεῖν νυνὶ  
 τὰ ψευδῇ μαρτυρεῖν, τούτου τηλικούτον ἔλεγχον πε-  
 φευγότες; ἐγὼ μὲν οἶμαι οὐδέν. ἀλλὰ μὴν ὡς  
 [70] ἀληθῇ λέγω, λαβέ μοι πρῶτον | ταύτην τὴν μαρ-  
 τυρίαν καὶ ἀνάγνωθι.

ΜΑΡΤΥΡΙΑ

12 Ὑμεῖς μὲν τοίνυν καὶ ἰδίᾳ καὶ δημοσίᾳ βάσανον  
 ἀκριβέστατον ἔλεγχον νομίζετε· καὶ ὁπόταν δοῦλοι  
 καὶ ἐλεύθεροι παραγένωνται καὶ δέῃ εὐρεθῆναί τι  
 τῶν ζητουμένων, οὐ χρῆσθε ταῖς τῶν ἐλευθέρων  
 μαρτυρίαις, ἀλλὰ τοὺς δούλους βασανίζοντες, οὕτω  
 ζητεῖτε εὐρεῖν τὴν ἀλήθειαν τῶν γεγενημένων.  
 εἰκότως, ὦ ἄνδρες· σύνιστε γὰρ ὅτι τῶν μὲν μαρ-  
 τυρησάντων ἤδη τινὲς ἔδοξαν οὐ τὰληθῇ μαρ-  
 τυρῆσαι, τῶν δὲ βασανισθέντων οὐδένας πώποτε  
 ἐξηλέγχθησαν ὡς οὐκ ἀληθῇ ἐκ τῶν βασάνων  
 13 εἰπόντες. οὗτος δ' ὁ πάντων ἀναισχυντότατος  
 ἀνθρώπων λόγοις πεπλασμένοις καὶ μάρτυσιν οὐ  
 τὰληθῇ μαρτυροῦσιν ἀξιώσει πιστεύειν ὑμᾶς, φεύ-  
 γων οὕτως ἀκριβεῖς ἐλέγχους; ἀλλ' οὐχ ἡμεῖς,  
 ἀλλὰ πρότερον ὑπὲρ τῶν μαρτυρηθήσεσθαι μελ-  
 λόντων ἀξιώσαντες εἰς βασάνους ἐλθεῖν, τούτου

## ON THE ESTATE OF CIRON, 10-13

female slaves to be put to the question on these points and any others of which they had cognizance. My adversary, however, who will presently demand that you shall believe *his* witnesses, refused the examination under torture. Yet, if he shall be shown to have refused my request, what remains to be thought of his witnesses except that they are giving false evidence, since he has refused so decisive a method of testing them? In my opinion no other conclusion is possible. But to prove that what I am saying is true, please first take and read this deposition.

### DEPOSITION

You Athenians hold the opinion that both in public and in private matters examination under torture is the most searching test; and so, when you have slaves and free men before you and it is necessary that some contested point should be cleared up, you do not employ the evidence of free men but seek to establish the truth about the facts by putting the slaves to torture. This is a perfectly reasonable course; for you are well aware that before now witnesses have appeared not to be giving true evidence, whereas no one who has been examined under torture has ever been convicted of giving false evidence as the result of being tortured. And will my opponent, the most impudent of men, demand that you shall believe his fictitious stories and lying witnesses, while he thus declines so sure a method of proof? Our conduct has been quite different. Seeing that we first demanded that recourse should be had to examination under torture on the points about which evidence was to be given, and my opponent refuses to allow this, under these

δὲ φεύγοντος,<sup>1</sup> οὕτως οἰησόμεθα δεῖν ὑμᾶς τοῖς ἡμετέροις μάρτυσι πιστεύειν. λαβὲ οὖν αὐτοῖς ταυτασὶ τὰς μαρτυρίας καὶ ἀνάγνωθι.

ΜΑΡΤΥΡΙΑΙ

- 14 Τίνας εἰκὸς εἰδέναι τὰ παλαιά; δῆλον ὅτι τοὺς χρωμένους τῷ πάππῳ. μεμαρτυρήκασι τοίνυν ἀκοὴν οὗτοι. τίνας εἰδέναι τὰ περὶ τὴν ἔκδοσιν τῆς μητρὸς ἀνάγκη; τοὺς ἐγγυησαμένους καὶ τοὺς ἐκείνοις παρόντας ὅτε ἡγγυῶντο. μεμαρτυρήκασι τοίνυν οἳ τε Ναυσιμένους προσήκοντες καὶ οἱ τοῦ ἐμοῦ πατρός. τίνες δὲ οἱ τρεφομένην ἔνδον<sup>2</sup> καὶ θυγατέρα οὔσαν εἰδότες γνησίαν Κίρωνος; οἱ νῦν ἀμφισβητοῦντες ἔργῳ φανερώς μαρτυροῦσιν ὅτι ταῦτ' ἐστὶν ἀληθῆ, φεύγοντες τὴν βάσανον. ὥστε οὐ δήπου τοῖς ἡμετέροις ἂν ἀπιστήσαιτε<sup>3</sup> εἰκότως, ἀλλὰ πολὺ μᾶλλον τοῖς τούτων μάρτυσιν.
- 15 Ἡμεῖς τοίνυν καὶ ἄλλα τεκμήρια πρὸς τούτοις ἔχομεν εἰπεῖν, [ἵνα γνώσεσθε] ὅτι ἐκ θυγατρὸς ἡμεῖς Κίρωνος ἐσμέν. οἷα γὰρ εἰκὸς παίδων ὄντων<sup>4</sup> ἐξ ἑαυτοῦ θυγατρὸς, οὐδεπώποτε θυσίαν ἄνευ ἡμῶν οὐδεμίαν ἐποίησεν, ἀλλ' εἴ τε μικρὰ εἴ τε μεγάλα θύοι, πανταχοῦ παρῆμεν ἡμεῖς καὶ συνεθύομεν. καὶ οὐ μόνον εἰς τὰ τοιαῦτα παρεκαλούμεθα, ἀλλὰ καὶ εἰς Διονύσια εἰς ἀγρὸν ἦγεν
- 16 αἰὲ ἡμᾶς, καὶ μετ' ἐκείνου τε ἐθεωροῦμεν καθήμενοι παρ' αὐτόν, καὶ τὰς ἐορτὰς ἡγομεν παρ' ἐκείνον πάσας· τῷ Δίῳ τε θύων τῷ Κτησίῳ, περὶ ἣν

<sup>1</sup> τούτου δὲ φεύγοντος Voightlaender: τούτους δὲ φεύγοντας.

<sup>2</sup> ἔνδον Reiske: εἶδον.

<sup>3</sup> ἀπιστήσαιτε Reiske: -ητε.

<sup>4</sup> ὄντων Sauppe: υἱέων.



## ON THE ESTATE OF CIRON, 13-16

conditions we shall consider that you ought to believe our witnesses. Take, therefore, these depositions and read them to the court.

### DEPOSITIONS

Who are likely to be best acquainted with the events of the distant past? Obviously those who were intimate with my grandfather; they, then, have given evidence of what was told them. Who must necessarily know the facts about the giving of my mother in marriage? Those who betrothed her and those who were present when they betrothed her; the relatives, then, of Nausimenes and of my father have given their evidence. Who know best that my mother was brought up in Ciron's house and was his legitimate daughter? The present claimants clearly give evidence of the truth of these facts by their action in declining to put the slaves to torture. Thus, I think, you have much better reason for disbelieving their witnesses than mine.

Now there are other proofs which we can bring forward to show that we are the children of Ciron's daughter. For, as was natural, seeing that we were the sons of his own daughter, Ciron never offered a sacrifice without our presence; whether he was performing a great or small sacrifice, we were always there and took part in the ceremony. And not only were we invited to such rites but he also always took us into the country for the Dionysia, and we always went with him to public spectacles and sat at his side, and we went to his house to keep all the festivals; and when he sacrificed to Zeus Ctesius <sup>a</sup>—

<sup>a</sup> Zeus as the guardian of family possessions.

μάλιστα' ἐκεῖνος θυσίαν ἐσπούδαζε καὶ οὔτε δούλους προσῆγεν οὔτε ἐλευθέρους ὀθνείους, ἀλλ' αὐτὸς δι' ἑαυτοῦ πάντ' ἐποίει, ταύτης ἡμεῖς ἐκωνοῦμεν καὶ τὰ ἱερὰ συνεχειρουροῦμεν καὶ συνεπετίθεμεν<sup>1</sup> καὶ τὰλλα συνεποιοῦμεν, καὶ ἡὔχετο ἡμῖν ὑγίειαν διδόναι καὶ κτήσιν ἀγαθὴν, ὥσπερ  
 17 εἰκὸς ὄντα πάππον. καίτοι εἰ μὴ θυγατρίδους ἡμᾶς ἐνόμιζεν εἶναι καὶ μόνους ἐκγόνους ἑώρα λοιποὺς καταλελειμμένους αὐτῷ, οὐκ ἂν ποτε ἐποίει τούτων οὐδέν, ἀλλὰ τόνδ' ἂν αὐτῷ παρίστατο, ὃς ἀδελφίδους αὐτοῦ νῦν εἶναι φησί. καὶ ταῦθ' ὅτι ἀληθὴ πάντ' ἐστίν, ἀκριβέστατα μὲν οἱ τοῦ πάππου θεράποντες ἴσασιν, οὓς οὗτος<sup>2</sup> παραδύναται εἰς βάσανον οὐκ ἠθέλησεν, ἴσασι δὲ περιφανέστατα καὶ τῶν ἐκείνῳ χρωμένων τινές, οὓς παρέξομαι μάρτυρας. καί μοι λαβὲ τὰς μαρτυρίας καὶ ἀνάγνωθι.

ΜΑΡΤΥΡΙΑΙ

18 Οὐ τοίνυν ἐκ τούτων δῆλόν ἐστι μόνον ὅτι ἦν ἡμῶν ἡ μήτηρ θυγάτηρ γνησία Κίρωνος, ἀλλὰ καὶ ἐξ ὧν ὁ πατὴρ ἡμῶν ἔπραξε καὶ ἐξ ὧν αἱ γυναῖκες αἱ τῶν δημοτῶν περὶ αὐτῆς ἐγίγνωσκον. ὅτε γὰρ ὁ πατὴρ αὐτὴν ἐλάμβανε, γάμους εἰστίασε καὶ ἐκάλεσε τρεῖς αὐτοῦ φίλους μετὰ τῶν αὐτοῦ προσηκόντων, τοῖς τε φράτορσι γαμηλίαν εἰσῆνεγκε  
 19 κατὰ τοὺς ἐκείνων νόμους. αἱ τε γυναῖκες αἱ τῶν δημοτῶν μετὰ ταῦτα προὔκριναν αὐτὴν μετὰ τῆς Διοκλέους γυναικὸς τοῦ Πιθέως<sup>3</sup> ἄρχειν εἰς τὰ Θεσμοφόρια καὶ ποιεῖν τὰ νομιζόμενα μετ'

<sup>1</sup> συνεπετίθεμεν Scheibe: συνετ-.

<sup>2</sup> οὗτος Dobree: αὐτός.

<sup>3</sup> Πιθέως Meursius: πίτεως.

a festival to which he attached a special importance, to which he admitted neither slaves nor free men outside his own family, at which he personally performed all the rites—we participated in this celebration and laid our hands with his upon the victims and placed our offerings side by side with his, and took part in all the other rites, and he prayed for our health and wealth, as he naturally would, being our grandfather. Yet if he had not regarded us as his daughter's children and seen in us his only surviving lineal descendants, he would have done none of these things but would have placed at his side my opponent, who now claims to be his nephew. And that I am telling the truth on all these points is well known to my grandfather's attendants, whom my opponent refused to give up to be questioned; the same facts are perfectly well known to some of his intimate friends also, whose evidence I will produce. Please take and read the depositions.

## DEPOSITIONS

But it is not only from these proofs that our mother is clearly shown to be the legitimate daughter of Ciron; but there is also the evidence of our father's conduct and the attitude adopted by the wives of his fellow-demesmen towards her. When our father took her in marriage, he gave a wedding-feast and invited three of his friends as well as his relatives, and he gave a marriage-banquet to the members of his ward according to their statutes. Also the wives of the demesmen afterwards chose our mother, together with the wife of Diocles of Pithus, to preside at the Thesmophoria<sup>a</sup> and to carry out the

<sup>a</sup> Cf. iii. 80; vi. 49.

ἐκείνης. ὁ τε πατήρ ἡμῶν, ἐπειδὴ ἐγενόμεθα, εἰς  
 τοὺς φράτορας ἡμᾶς εἰσήγαγεν, ὁμόσας κατὰ τοὺς  
 νόμους τοὺς κειμένους ἢ μὴν ἐξ ἀστῆς καὶ ἐγγνητῆς  
 [71] γυναικὸς εἰσάγειν· τῶν δὲ | φρατόρων οὐδεὶς ἀντ-  
 εῖπεν οὐδ' ἡμφισβήτησε μὴ οὐκ ἀληθῆ ταῦτ'  
 εἶναι, πολλῶν ὄντων καὶ ἀκριβῶς τὰ τοιαῦτα  
 20 σκοπουμένων. καίτοι μὴ οἶεσθ' ἄν, εἰ τοιαύτη  
 τις ἦν ἡ μήτηρ ἡμῶν οἶαν οὐτοί φασι, μήτ' ἄν  
 τὸν πατέρα ἡμῶν γάμους ἐστιᾶν καὶ γαμηλίαν  
 εἰσενεγκεῖν, ἀλλὰ ἀποκρύψασθαι ταῦτα πάντα,  
 μήτε τὰς τῶν ἄλλων δημοτῶν γυναικας αἰρεῖσθαι  
 ἄν αὐτὴν συνιεροποιεῖν τῇ Διοκλέους γυναικὶ καὶ  
 κυρίαν ποιεῖν ἱερῶν, ἀλλ' ἑτέρα ἄν τινι περὶ τού-  
 των ἐπιτρέπειν, μήτε τοὺς φράτορας εἰσδέχεσθαι  
 ἡμᾶς, ἀλλὰ κατηγορεῖν καὶ ἐξελέγχειν, εἰ μὴ  
 πάντοθεν ἦν ὁμολογούμενον τὴν μητέρα ἡμῶν  
 εἶναι θυγατέρα γνησίαν Κίρωνος. νῦν δὲ τῇ περι-  
 φανείᾳ τοῦ πράγματος καὶ τῷ συνειδέναι ταῦτα  
 πολλοὺς οὐδαμόθεν ἡμφισβητήθη τοιοῦτον οὐδέν.  
 καὶ ταῦθ' ὥς ἀληθῆ λέγω, κάλει τούτων τοὺς  
 μάρτυρας.

ΜΑΡΤΥΡΕΣ

21 Ἔτι τοίνυν, ὦ ἄνδρες, καὶ ἐξ ὧν ὁ Διοκλῆς  
 ἔπραξεν ὅτε ἡμῶν ὁ πάππος ἐτελεύτησε, γινῶναι  
 ῥάδιον ὅτι ὁμολογούμεθα εἶναι θυγατριδοῖ Κίρωνος.  
 ἦκον γὰρ ἐγὼ κομιούμενος αὐτὸν ὡς θάψων ἐκ  
 τῆς οἰκίας τῆς ἐμαυτοῦ, τῶν ἐμαυτοῦ οἰκείων τινὰ  
 ἔχων, ἀνεψιὸν τοῦ πατρός· καὶ Διοκλέα μὲν οὐ  
 κατέλαβον ἔνδον, εἰσελθὼν δὲ εἴσω κομίζειν οἶος  
 300

ceremonies jointly with her. Again, our father at our birth introduced us to the members of his ward, having declared on oath, in accordance with the established laws, that he was introducing the children of an Athenian mother duly married; and none of the wardsmen made any objection or disputed the truth of his statements, though they were present in large numbers and always look carefully into such matters. Yet do not for a moment suppose, that, if our mother had been such as our opponents allege, our father would have either given a wedding-feast or provided a marriage-banquet and not rather hushed up the whole matter; or that the wives of the other demesmen would have chosen her to celebrate the festival with the wife of Diocles and given the sacred objects into her hands and not rather entrusted this office to some other woman; or that the wardsmen would have admitted us and not rather objected and justified their objection, if it had not been universally admitted that our mother was a legitimate daughter of Ciron. As it was, owing to the notoriety of the fact and its recognition by so many persons, no such question was raised from any quarter. Now call the witnesses to prove the truth of these statements.

## WITNESSES

Furthermore, gentlemen, the conduct of Diocles on the occasion of our grandfather's death clearly shows that we were acknowledged as the grandchildren of Ciron. I presented myself, accompanied by one of my relatives, a cousin of my father, to convey away the body with the intention of conducting the funeral from my own house. I did not find Diocles in the house, and I entered and was

- 22 ἦν, ἔχων τοὺς οἷσοντας. δεομένης δὲ τῆς τοῦ  
 πάππου γυναικὸς ἐκ τῆς οἰκίας αὐτὸν ἐκείνης  
 θάπτειν, καὶ λεγούσης ὅτι βούλοιτ' ἂν αὐτὴ τὸ  
 σῶμα τὸ ἐκείνου συμμεταχειρίζεσθαι μεθ' ἡμῶν  
 καὶ κοσμήσαι, καὶ ταῦτα ἱκετενούσης καὶ κλαι-  
 ούσης, ἐπείσθην, ὦ ἄνδρες, καὶ τούτῳ προσελθὼν  
 μαρτύρων ἐναντίον εἶπον ὅτι ἐντεῦθεν ποιήσομαι  
 τὴν ταφήν· δεδεημένη γὰρ εἴη<sup>1</sup> ταῦτα ποιεῖν ἢ  
 23 τούτου ἀδελφή. καὶ ταῦτα Διοκλῆς ἀκούσας οὐδὲν  
 ἀντεῖπεν, ἀλλὰ καὶ ἐωνῆσθαι τι τῶν εἰς τὴν ταφήν,  
 τῶν δὲ<sup>2</sup> ἄρραβῶνα δεδωκέναι αὐτὸς<sup>3</sup> φάσκων, ταῦτα  
 ἡξίου παρ' ἐμοῦ λαβεῖν, καὶ διωμολογήσατο τῶν  
 μὲν ἡγορασμένων τιμὴν ἀπολαβεῖν, ὧν δὲ ἄρρα-  
 βῶνα ἔφασκε δεδωκέναι, συστήσαι τοὺς λαβόντας.  
 εὐθὺς οὖν τοῦτο παρεφθέγγετο, ὥς οὐδ' ὅτιοῦν εἴη  
 Κίρων καταλελοιπώς, οὐδένα λόγον ἐμοῦ πω  
 24 ποιουμένου περὶ τῶν ἐκείνου χρημάτων. καίτοι  
 εἰ μὴ ἦν θυγατριδοῦς Κίρωνος, οὐκ ἂν ταῦτα  
 διωμολογεῖτο, ἀλλ' ἐκείνους ἂν τοὺς λόγους ἔλεγε  
 “σὺ δὲ τίς εἶ; σοὶ δὲ τί προσήκει θάπτειν; οὐ  
 γινώσκω σε· οὐ μὴ εἴσει εἰς<sup>4</sup> τὴν οἰκίαν.” ταῦτ'  
 εἰπεῖν προσῆκεν, ἃ περ νῦν ἐτέρους πέπεικε λέγειν.  
 νῦν δὲ τοιοῦτον μὲν οὐδὲν εἶπεν, εἰς ἔω δὲ τὰρ-  
 γύριον ἐκέλευεν εἰσενεγκεῖν. καὶ ταῦτα ὥς ἀληθῆ  
 λέγω, κάλει μοι τούτων τοὺς μάρτυρας.

## ΜΑΡΤΥΡΕΣ

- 25 Οὐ τοίνυν ἐκεῖνος μόνος, ἀλλ' οὐδὲ ὁ νῦν ἀμφι-

<sup>1</sup> εἴη Reiske: ἐνι.

<sup>2</sup> τῶν δὲ Bekker: τὸν δὲ.

<sup>3</sup> αὐτὸς Reiske: οὗτος.

<sup>4</sup> εἴσει εἰς Bekker: εἰσίσης.

prepared to remove the body, having bearers with me for this purpose. When, however, my grandfather's widow requested that the funeral should take place from that house, and declared that she would like herself to help us to lay out and deck the corpse, and entreated me and wept, I acceded to her request and went to my opponent and told him in the presence of witnesses that I would conduct the funeral from the house of the deceased, since Diocles' sister had begged me to do so. Diocles, on hearing this, made no objection, but asserting that he had actually bought some of the requisites for the funeral and had himself paid a deposit for the rest, demanded that I should pay him for these, and arranged to recover from me the cost of the objects which he had purchased and to produce those who had received the deposit for the objects for which he alleged that he had paid a deposit. Immediately afterwards he casually remarked that Ciron had left nothing at all, although I had not said a single word about his money. Yet had I not been Ciron's grandson, he would never have made these arrangements with me, but would rather have said, "Who are you? What right have you to carry out the burial? I do not know you: you shall not set foot in the house." This is what he ought to have said, and what he has now instigated others to say. As it was, he said nothing of the kind, but only told me to bring the money next morning. And to prove the truth of these statements, please summon the witnesses.

## WITNESSES

Diocles was not the only person who made no such objections at the time; the present claimant to

σβητῶν τοῦ κλήρου τοιοῦτον εἶπεν οὐδέν, ἀλλ' ὑπὸ τούτου παρασκευασθεὶς ἀμφισβητεῖ. καὶ κείνου τὸ μὲν παρ' ἐμοῦ κομισθὲν ἀργύριον οὐκ ἐθελήσαντος ἀπολαβεῖν, παρὰ τούτου δ' ἀπειληφέναι τῇ ὑστεραίᾳ φάσκοντος, οὐκ ἐκωλυόμην συνθάπτειν ἀλλὰ πάντα συνεποιοῦν· οὐχ ὅπως τοῦδε ἀναλίσκοντος οὐδὲ Διοκλέους, ἀλλ' ἐξ ὧν ἐκεῖνος κατέλιπε γιγνομένων τῶν εἰς αὐτὸν ἀνα-

26 λωμάτων. καίτοι καὶ τούτῳ προσῆκεν, εἰ μὴ πάππος ἦν μοι Κίρων, ὥθειν <καὶ><sup>1</sup> ἐκβάλλειν καὶ κωλύειν συνθάπτειν. οὐδὲν γὰρ ὅμοιον ἦν μοι πρὸς τοῦτον· ἐγὼ μὲν γὰρ εἶων αὐτὸν ἀδελφιδοῦν ὄντα τοῦ πάππου ταῦτα πάντα συμποιεῖν, τούτῳ δ' ἔμ' οὐ προσῆκεν ἔαν, εἴπερ ἀληθῇ ταῦτα ἦν

27 ἅπερ νῦν λέγειν τολμῶσιν. ἀλλ' οὕτω τῇ τοῦ πράγματος ἀληθείᾳ κατεπέπληκτο,<sup>2</sup> ὥστ' οὐδ' ἐπὶ τοῦ σήματος<sup>3</sup> ἐμοῦ ποιουμένου λόγους, καὶ κατηγοροῦντος Διοκλέους ὅτι τὰ χρήματα ἀποστερῶν τοῦτόν μοι πέπεικεν ἀμφισβητεῖν, οὐκ ἐτόλμησε γρῦξαι<sup>4</sup> τὸ παράπαν οὐδὲν οὐδ'<sup>5</sup> εἰπεῖν ἃ νῦν τολμᾷ λέγειν. καὶ ταῦθ' ὅτι ἀληθῇ λέγω, κάλει μοι τούτων τοὺς μάρτυρας.

ΜΑΡΤΥΡΕΣ

28 Πόθεν χρὴ πιστεῦεσθαι τὰ εἰρημένα; οὐκ ἐκ τῶν μαρτυριῶν; οἶμαί γε. πόθεν δὲ τοὺς μάρτυρας; οὐκ ἐκ τῶν βασάνων; εἰκός γε. πόθεν |

[72] δ' ἀπιστεῖν τοῖς τούτων λόγοις; οὐκ ἐκ τοῦ

<sup>1</sup> καὶ add. Scheibe.

<sup>2</sup> κατεπέπληκτο M, Aldus: κατα-

<sup>3</sup> σήματος Photiades: βήματος.

<sup>4</sup> γρῦξαι Scaliger: ἐρύξαι.

<sup>5</sup> οὐδ' Bekker: οὐτ'.



## ON THE ESTATE OF CIRON, 25-28

the estate was also silent and is now making his claim because he has been suborned by Diocles. Though Diocles refused to accept the money which I brought and alleged next day that he had received payment from my opponent, yet I was not prevented from attending the burial but joined in all the ceremonies, the expenses of the funeral, so far from being paid by my opponent or Diocles, being defrayed from the property left by the deceased. Yet if Ciron had not really been my grandfather, it was the duty of my opponent to repulse me and reject me and prevent me from taking part in the burial. My position with regard to him was quite a different one : for I allowed him, as my grandfather's nephew, to share in all the rites, but he ought never to have allowed me to do so, if what they now have the audacity to say were true. But he was so overawed by his knowledge of the true facts, that at the tomb, when I spoke and accused Diocles of detaining the property and of having suborned him to dispute the inheritance, he did not venture to utter a sound or say a word of what he now has the impudence to assert. And to prove that I am telling the truth, please call the witnesses to these events.

### WITNESSES

What ought to induce you to believe the statements which you have heard? Ought not the evidence of witnesses to induce you to do so? I certainly think so. But what entitles you to believe the witnesses? Is it not the confirmation of their evidence under torture? It seems only reasonable. But what entitles you to disbelieve the statements of my opponents? Is it not their refusal to put

φεύγειν τοὺς ἐλέγχους; ἀνάγκη μεγάλη. πῶς οὖν ἂν τις σαφέστερον ἐπιδείξειε γνησίαν οὖσαν θυγατέρα Κίρωνος τὴν μητέρα τὴν ἐμὴν ἢ τοῦτον  
 29 τὸν τρόπον ἐπιδεικνύς; τῶν μὲν παλαιῶν ἀκοὴν μαρτυρούντων παρεχόμενος, τῶν δὲ ἔτι ζώντων τοὺς εἰδότας ἕκαστα τούτων, οἳ συνήδεσαν παρ' ἐκείνῳ τρεφομένην, θυγατέρα νομιζομένην, δις ἐκδοθεῖσαν, δις ἐγγυηθεῖσαν, ἔτι δὲ περὶ πάντων τούτους<sup>1</sup> βάσανον ἐξ οἰκετῶν πεφευγότας, οἳ ταῦτα πάντα ἤδεσαν. ἔγωγε<sup>2</sup> μὰ τοὺς θεοὺς τοὺς Ὀλυμπίους οὐκ ἂν ἔχοιμι πίστεις μείζους τούτων εἰπεῖν, ἀλλ' ἱκανὰς εἶναι νομίζω τὰς εἰρημένας.

30 Φέρε δὴ, καὶ ὥς προσήκει ἐμοὶ μᾶλλον ἢ τούτῳ τῶν Κίρωνος χρημάτων, νῦν ἤδη τοῦτο ἐπιδείξω. καὶ νομίζω μὲν ἀπλῶς καὶ ὑμῖν ἤδη εἶναι φανερόν ὅτι οὐκ ἐγγυτέρω ταῖς ἀγχιστείαις<sup>3</sup> εἰσὶν οἱ μετ' ἐκείνου φύντες ἢ οἱ ἐξ ἐκείνου γεγονότες (πῶς γάρ; οἱ μὲν γὰρ ὀνομάζονται συγγενεῖς, οἱ δ' ἔκγονοι τοῦ τελευτήσαντος). οὐ μὴν ἀλλ' ἐπειδὴ καὶ οὕτως ἐχόντων τολμῶσιν ἀμφισβητεῖν, καὶ  
 31 ἐξ αὐτῶν τῶν νόμων ἀκριβέστερον διδάξομεν. εἰ γὰρ ἔζη μὲν ἡ ἐμὴ μήτηρ, θυγάτηρ δὲ Κίρωνος, μηδὲν δὲ ἐκεῖνος διαθέμενος ἐτελεύτησεν, ἦν δὲ ἀδελφὸς οὗτος αὐτῷ, μὴ ἀδελφιδοῦς, συνοικῆσαι μὲν ἂν τῇ γυναικὶ κύριος ἦν, τῶν δὲ χρημάτων οὐκ ἂν, ἀλλ' οἱ γενόμενοι παῖδες ἐκ τούτου καὶ

<sup>1</sup> τούτους Aldus: τούτων.

<sup>2</sup> ἔγωγε Dobree: ἐγὼ δέ.

<sup>3</sup> ταῖς ἀγχιστείαις Emper: τῆς ἀγχιστείας.

the matter to the test? This is an absolutely necessary conclusion. How then could anyone prove that my mother is a legitimate daughter of Ciron more clearly than by the method which I am adopting? For events in the distant past I furnished hearsay evidence vouched for by witnesses; where living witnesses are available, I produced those who are familiar with the facts, who knew perfectly well that my mother was brought up in Ciron's house, that she was regarded as his daughter, and that she was twice betrothed and twice married; I further showed that on all these points my opponents have refused to allow the evidence of slaves under torture, who knew all the facts. By the gods of Olympus, I could not possibly give stronger proofs than these, and I think that those which I have produced are sufficient.

But to continue; let me next prove to you that I have a better right than my opponent to Ciron's fortune. I suppose that you admit in principle as a self-evident fact that those who are descended from the same stock as Ciron are not nearer in right of succession than those who are descended from him. (How, indeed, could they be, since the former are called collateral kinsmen, the latter lineal descendants of the deceased?) Since, however, even though this is so, they have the impudence to dispute my right, we will explain the point in greater detail from the actual laws. Supposing that my mother, Ciron's daughter, were still alive and that her father had died intestate and that my opponent were his brother and not his nephew, he would have the right to claim the daughter in marriage, but he could not claim the estate, which would go to the children born of their marriage when they had

ἐξ ἐκείνης, ὁπότε ἐπὶ δίετες ἤβησαν· οὕτω γὰρ οἱ νόμοι κελεύουσιν. εἰ τοίνυν καὶ ζώσης κύριος αὐτὸς μὴ ἐγένετο τῶν τῆς γυναικός, ἀλλ' οἱ παῖδες, δῆλον ὅτι καὶ τετελευτηκυίας, ἐπεὶ παῖδας ἡμᾶς καταλέλοιπεν, οὐ τούτοις ἀλλ' ἡμῖν προσήκει κληρονομεῖν τῶν χρημάτων.

32 Οὐ τοίνυν ἐκ τούτου μόνον, ἀλλὰ καὶ ἐκ τοῦ περὶ τῆς κακώσεως νόμου δῆλόν ἐστιν. εἰ γὰρ ἔζη μὲν ὁ πάππος, ἐνδεής δὲ ἦν τῶν ἐπιτηδείων, οὐκ ἂν οὗτος ὑπόδικος<sup>1</sup> ἦν τῆς κακώσεως ἀλλ' ἡμεῖς. κελεύει γὰρ τρέφειν τοὺς γονέας· γονεῖς δ' εἰσὶ μήτηρ καὶ πατήρ καὶ πάππος καὶ τήθη καὶ τούτων μήτηρ καὶ πατήρ, ἐὰν ἔτι ζῶσιν· ἐκεῖνοι γὰρ ἀρχὴ τοῦ γένους εἰσὶ, καὶ τὰ ἐκείνων παραδίδονται τοῖς ἐκγόνοις<sup>2</sup>. διόπερ ἀνάγκη τρέφειν αὐτούς ἐστι, καὶ μὴδὲν καταλίπωσι. πῶς οὖν δίκαιόν ἐστιν, ἐὰν μὲν μὴδὲν καταλίπωσιν, ἡμᾶς ὑποδίκους εἶναι τῆς κακώσεως, ἢ μὴ τρέφωμεν, εἰ δέ τι καταλελοίπασι, τόνδ' εἶναι κληρονόμον ἀλλὰ μὴ ἡμᾶς; οὐδαμῶς δήπουθεν.

33 Πρὸς ἓνα δὲ τὸν πρῶτον τῶν συγγενῶν προσάξω, καὶ τοῦ γένους καθ' ἕκαστον ὑμᾶς ἐρωτήσω· ῥᾶστα γὰρ οὕτω μάθοιτ' ἄν. Κίρωνος πότερον θυγάτηρ ἢ ἀδελφὸς ἐγγυτέρω τοῦ γένους ἐστί; δῆλον γὰρ ὅτι θυγάτηρ· ἢ μὲν γὰρ ἐξ ἐκείνου γέγονεν, ὁ δὲ μετ' ἐκείνου. θυγατρὸς δὲ παῖδες ἢ ἀδελφός; παῖδες δήπουθεν· γένος γὰρ ἀλλ' οὐχί

<sup>1</sup> ὑπόδικος Scaliger: ἐπίδικος.

<sup>2</sup> ἐκγόνοις Baiter-Sauppe: ἐγγόνοις.

## ON THE ESTATE OF CIRON, 31-33

completed two years after puberty ; for this is what the laws ordain. Since, then, the children, and not my opponent himself, would have become masters of her property if she were alive, it is obvious, since she is dead and has left children, namely, my brother and myself, that we, and not our opponents, have the right to succeed to the estate.

This is the clear intention not only of this law but also of that dealing with the neglect of parents. For if my grandfather were alive and in want of the necessities of life, we, and not our opponent, would be liable to prosecution for neglect. For the law enjoins us to support our parents, meaning by "parents" father, mother, grandfather, and grandmother, and their father and mother, if they are still alive ; for they are the source of the family, and their property is transmitted to their descendants, and so the latter are bound to support them even if they have nothing to bequeath to them. How then can it be right that, if they have nothing to leave, we should be liable to prosecution for neglecting them, yet that, if they have something to leave, our opponent should be the heir and not we ? Surely it cannot be right.

I will now institute a comparison with the nearest collateral relative and question you on the various degrees of relationship ; <sup>a</sup> for this is the easier way of making the matter clear to you. Is Ciron's daughter or his brother the nearer of kin to him ? Clearly his daughter ; for she is his issue, while the brother is only born of the same stock. Next, is the brother nearer of kin or the daughter's children ? Certainly the daughter's children ; for they are

<sup>a</sup> The text is doubtful here, but the general sense is clear.

## ISAEUS

συγγένεια τοῦτ' ἐστίν. εἰ δὴ προέχομεν ἀδελφοῦ  
 τοσοῦτον, ἢ που τοῦδέ γ' ὄντος<sup>1</sup> ἀδελφιδοῦ πάμ-  
 34 πολυ πρότεροί ἐσμεν. δέδοικα δὲ μὴ λίαν ὁμο-  
 λογούμενα λέγων ἐνοχλεῖν ὑμῖν δόξω· πάντες γὰρ  
 ὑμεῖς τῶν πατρῶων, τῶν παππῶων, τῶν ἔτι  
 περαιτέρω κληρονομεῖτε ἐκ γένους παρειληφότες  
 τὴν ἀγχιστείαν ἀνεπίδικον,<sup>2</sup> καὶ οὐκ οἶδ' εἴ τιτι  
 πρὸ τοῦ<sup>3</sup> πῶποτε τοιοῦτος ἀγὼν συμβέβηκεν.  
 ἀναγνοὺς οὖν τὸν τῆς κακώσεως νόμον, ὧν ἕνεκα  
 πάντα<sup>4</sup> γίγνεται, καὶ ταῦτ' ἤδη πειράσομαι  
 διδάσκειν.

## ΝΟΜΟΣ

35 Κίρων γὰρ ἐκέκτητο οὐσίαν, ὧ ἄνδρες, ἀγρὸν  
 μὲν Φλυῆσι, καὶ ταλάντου ῥαδίως ἄξιον, οἰκίας δ'  
 ἐν ἄστει δύο, τὴν μὲν μίαν μισθοφοροῦσαν, παρὰ  
 τὸ ἐν Λίμναις Διονύσιον, δισχιλίας εὐρίσκουσαν,  
 τὴν δ' ἑτέραν, ἐν ἣ αὐτὸς ὥκει, τριῶν καὶ δέκα  
 μνῶν· ἔτι δὲ ἀνδράποδα μισθοφοροῦντα καὶ δύο  
 θεραπαίνας καὶ παιδίσκη, καὶ ἔπιπλα δι' ὧν ὥκει  
 τὴν οἰκίαν, σχεδὸν σὺν τοῖς ἀνδραπόδοις ἄξια  
 τριῶν καὶ δέκα<sup>5</sup> μνῶν· σύμπαντα δὲ ὅσα φανερά  
 ἦν, πλεόν ἢ ἐνενήκοντα μνῶν· χωρὶς δὲ τούτων  
 δανείσματα οὐκ ὀλίγα, ἀφ' ὧν ἐκεῖνος τόκους  
 36 ἐλάμβανε. τούτοις Διοκλῆς μετὰ τῆς ἀδελφῆς |  
 [73] πάλαι ἐπεβούλευεν, ἐπειδὴ τάχιστα οἱ παῖδες οἱ  
 Κίρωνος ἐτελεύτησαν. ἐκείνην μὲν γὰρ οὐκ ἐξ-  
 εδίδου δυναμένην ἔτι τεκεῖν παῖδας ἐξ ἑτέρου

<sup>1</sup> τοῦδέ γ' ὄντος Reiske: τοῦ λέγοντος.

<sup>2</sup> ἀνεπίδικον Reiske: ἐπίδικον.

<sup>3</sup> πρὸ τοῦ sched. Eton., Bekker: πρῶτω.

<sup>4</sup> πάντα Scheibe: τὰλλα.

<sup>5</sup> τριῶν καὶ δέκα Blass: τρισκαίδεκα.

lineal descendants and not mere collaterals. If then our rights are so far superior to those of a brother, *a fortiori* we are still more to be preferred to our opponent, who is only a nephew. But I am afraid of seeming tiresome in repeating truths so universally recognized; for you all inherit the property of your fathers, grandfathers, and remoter ancestors by the incontrovertible title of lineal descent, and I do not know that such a case as the present has ever been brought against anyone before. I shall therefore read the law about the neglect of parents and then try and show you the motives which led to the whole affair.

## LAW

The property of Ciron, gentlemen, consisted of an estate at Phlya, easily worth a talent, two houses in the city, one near the sanctuary of Dionysus in the Marshes,<sup>a</sup> let to a tenant and worth 2000 drachmae, the other, in which he himself used to live, worth thirteen minae; he also had <sup>b</sup> slaves earning wages, two female slaves and a young girl, and the fittings of his private residence, worth, including the slaves, about thirteen minae. The total value of his real property was thus more than ninety minae; but besides this he had considerable sums lent out, of which he received the interest. It was to obtain this property that Diocles, together with his sister, carried on his plots for a long time, ever since the death of Ciron's sons. For he did not try to find another husband for her, although she was still capable of bearing children to another

<sup>a</sup> On the probable position of this shrine S. of the Areopagus see Jane Harrison, *Primitive Athens*, pp. 83 ff.

<sup>b</sup> A number has probably fallen out here.

ἄνδρός, ἵνα μὴ χωρισθείσης περὶ τῶν αὐτοῦ βου-  
 λεύσαιτο καθάπερ προσῆκεν, ἔπειθε δὲ μένειν  
 φάσκουσιν ἐξ αὐτοῦ κυεῖν οἷεσθαι, προσποιου-  
 μένην δὲ διαφθείρειν ἄκουσαν, ἣν' ἐλπίζων αἰὲν  
 γενήσεσθαι παῖδας αὐτῷ μηδέτερον ἡμῶν εἰσποιή-  
 σαιτο ὑόν· καὶ τὸν πατέρα διέβαλλεν αἰεί, φάσκων  
 37 αὐτὸν ἐπιβουλεύειν τοῖς ἐκείνου. τά τε οὖν χρέα  
 πάντα, ὅσα ὠφείλετο αὐτῷ, καὶ <τοὺς><sup>1</sup> τόκους  
 ἔπειθε <πράξασθαι><sup>2</sup> τά τε φανερά δι' αὐτοῦ ποιεῖσθαι,  
 παράγων ἄνδρα πρεσβύτερον θεραπείαις καὶ κολα-  
 κείαις, ἕως ἅπαντα τὰ ἐκείνου περιέλαβεν. εἰδὼς δὲ  
 ὅτι πάντων ἐγὼ τούτων κατὰ τὸ προσῆκον εἶναι  
 κύριος ζητήσω, ὅποτε ὁ πάππος τελευτήσῃεν,<sup>3</sup>  
 εἰσιέναι μὲν με καὶ θεραπεύειν ἐκείνον καὶ συν-  
 διατρίβειν οὐκ ἐκώλυε, δεδιὼς μὴ τραχυνθεὶς εἰς  
 ὀργὴν κατασταίῃ<sup>4</sup> πρὸς αὐτόν, παρεσκεύαζε δέ  
 μοι τὸν ἀμφισβητήσοντα τῆς οὐσίας, μέρος πολλο-  
 στὸν τούτῳ μεταδιδούς εἰ κατορθώσῃεν, αὐτῷ δὲ  
 ταῦτα πάντα περιποιῶν, καὶ οὐδὲ πρὸς τοῦτον ὁμο-  
 λογῶν τὸν πάππον χρήματα καταλείπειν,<sup>5</sup> ἀλλ'  
 38 εἶναι φάσκων οὐδέν. καὶ ἐπειδὴ τάχιστα ἐτελεύ-  
 τησεν, ἐντάφια προπαρασκευασάμενος τὸ μὲν ἀρ-  
 γύριον ἐμὲ ἐκέλευεν ἐνεγκεῖν, ὡς τῶν μαρτύρων  
 ἡκούσατε μαρτυρησάντων, ἀπειληφέναι δὲ παρὰ  
 τοῦδε προσεποιεῖτο, παρ' ἐμοῦ δὲ οὐκέτι ἤθελεν

<sup>1</sup> τοὺς add. Herwerden.

<sup>2</sup> πράξασθαι add. Buermann.

<sup>3</sup> τελευτήσῃεν Scaliger: ἐτελεύτησεν.

<sup>4</sup> κατασταίῃ schedae Etonenses, Reiske: -αίην.

<sup>5</sup> καταλείπειν scripsi: -λιπεῖν.



man; for he feared that, if she were separated from Ciron, the latter would resolve to dispose of his estate in the proper manner; <sup>a</sup> but he kept on urging her to remain with him, and to allege that she thought she was with child by him and then pretend that she had an accidental miscarriage, in order that he might be always hoping that a child would be born to him, and might not, therefore, adopt myself or my brother. Diocles also continually calumniated my father, alleging that he was intriguing against Ciron's property. So he gradually persuaded Ciron to let him handle all the sums owing to him, and the interest upon them, and to manage his real property, cajoling the old man by his attentions and flattery until he had all his estate in his grasp. But, although he knew that in accordance with my rights I should seek to be master of this property when my grandfather was dead, yet he did not try to prevent me from visiting him and paying him attentions and conversing with him (for he was afraid that Ciron might become exasperated and be angry with him); but he was all the time preparing a claimant to dispute my right to the property, promising him a small share, if he were successful, and securing the whole estate for himself, and not admitting even to his accomplice that my grandfather had any money to leave, but pretending that there was nothing. Immediately after Ciron's death he lost no time in making preparations for the funeral, the expenses of which he required me to pay, as you have heard the witnesses testifying; but he afterwards pretended that he had received the money from my opponent and refused any longer

<sup>a</sup> *i.e.*, by leaving it to the speaker and his brother.

- ἀπολαβεῖν, ὑποπαρωθῶν, ὅπως ἐκείνος δοκοίη θάπτειν ἀλλὰ μὴ ἐγὼ τὸν πάππον. ἀμφισβητοῦντος δὲ τούτου καὶ τῆς οἰκίας ταύτης καὶ τῶν ἄλλων ὧν ἐκείνος κατέλιπε, καὶ οὐδὲν φάσκοντος καταλελοιπέναι, βιάσασθαι μὲν καὶ τὸν πάππον μεταφέρειν ἐν ταῖς τοιαύταις ἀκαιρίαις οὐκ ὤμην δεῖν, τῶν φίλων μοι ταῦτα συγγιγνωσκόντων, συνεποιοῦν δὲ καὶ συνέθαπτον, ἐξ ὧν ὁ πάππος
- 39 κατέλιπε τῶν ἀναλωμάτων γιγνομένων. καὶ ταῦτα μὲν οὕτως ἀναγκασθεὶς ἔπραξα τοῦτον τὸν τρόπον· ὅπως δὲ μηδέν μου ταύτῃ πλεονεκτοῖεν, παρ' ὑμῖν φάσκοντες οὐδέν με εἰς τὴν ταφὴν ἀνηλωκέναι, τὸν ἐξηγητὴν ἐρόμενος ἐκείνου κελεύσαντος ἀνήλωσα παρ' ἐμαυτοῦ καὶ τὰ ἔνατα ἐπήνεγκα, ὥς οἶόν τε κάλλιστα παρασκευάσας, ἵνα αὐτῶν ἐκκόψαιμι ταύτην τὴν ἱεροσυλίαν, καὶ ἵνα μὴ δοκοῖεν οὔτοι μὲν ἀνηλωκέναι πάντα, ἐγὼ δὲ μηδέν,<sup>1</sup> ἀλλ' ὁμοίως καὶ γώ.
- 40 Καὶ τὰ μὲν γεγεννημένα, καὶ δι' ἃ τὰ πράγματα ταῦτ' ἔχομεν, σχεδόν τι ταῦτ' ἐστίν, ὧ ἄνδρες· εἰ δὲ εἰδείητε τὴν Διοκλέους ἀναισχυντίαν, καὶ περὶ τὰ ἄλλα οἶός ἐστιν, οὐκ ἂν ἀπιστήσαιτε<sup>2</sup> τῶν εἰρημένων οὐδενί. οὗτος μὲν γὰρ ἔχει<sup>3</sup> τὴν οὐσίαν, ἀφ' ἧς νῦν ἐστι λαμπρός, ἀλλοτρίαν, ἀδελφῶν τριῶν ὁμομητρίων ἐπικλήρων καταλειφθεισῶν αὐτὸν τῷ πατρὶ αὐτῶν εἰσποιήσας, οὐδεμίαν ἐκείνου περὶ
- 41 τούτων ποιησαμένου διαθήκην. τοῖν δ' ἀδελφαῖν τοῖν<sup>4</sup> δυοῖν ἐπειδὴ τὰ χρήματα εἰσεπράττετο ὑπὸ

<sup>1</sup> μηδέν Herwerden: οὐδέν.

<sup>2</sup> ἀπιστήσαιτε Reiske: ἀπιστήσαι τις.

<sup>3</sup> ἔχει Baier: εἶχε.

<sup>4</sup> τοῖν . . . τοῖν Naber: ταῖν . . . ταῖν.

to accept payment from me, stealthily thrusting me aside, in order that it might appear that my opponent, and not I, was burying my grandfather. And when my opponent claimed this house and everything else that Ciron left behind him, although he said that he had left nothing, I did not think (and my friends agreed with me) that in these painful circumstances I ought to use violence and carry off my grandfather's body, but I took part in the rites and was present at the burial, the expenses of which were defrayed out of my grandfather's estate. Thus I acted in this manner under compulsion; but in order that they might gain no advantage over me by alleging to you that I bore no part of the funeral expenses, I consulted the interpreter of the sacred law and by his advice I paid for at my own expense and offered the ninth-day offerings in the most sumptuous manner possible, in order that I might confound their sacrilegious tricks, and that it might not seem that they had paid for everything and I for nothing, but that I might be thought to have done my share.

Such in substance, gentlemen, are the events which have occurred and the causes of all this trouble. If you understood the impudence of Diocles and his behaviour on all other occasions, you would have no difficulty in believing anything in my story. For the fortune which he now possesses, and with which he makes such a brave show, is not really his; for when his three half-sisters, the children of his mother, were left heiresses, he represented himself as the adopted son of their father, though the latter left no will to this effect. When the husbands of two of the sisters tried to obtain possession of their

## ISAEUS

τῶν ἐκείναις συνοικούντων, τὸν μὲν τὴν πρεσβυτέραν ἔχοντα κατοικοδομήσας καὶ ἐπιβουλεύσας ἠτίμωσε, καὶ γραφὴν ὑβρεως γραφεὶς οὐδέπω τούτων δίκην δέδωκε,<sup>1</sup> τῆς δὲ μετ' ἐκείνην γενομένης τὸν ἄνδρα ἀποκτεῖναι κελεύσας οἰκέτην ἐκείνον μὲν ἐξέπεμψε, τὴν δ' αἰτίαν εἰς τὴν ἀδελφὴν ἔτρεψε, καταπλήξας δὲ ταῖς αὐτοῦ βδελυρίαις προσαφῆρηται τὸν υἱὸν αὐτῆς<sup>2</sup> τὴν οὐσίαν ἐπιτροπεύσας, καὶ κατέχει τὸν ἀγρόν, φελλέα [χωρία ἅττα] δὲ ἐκείνῳ δέδωκε. καὶ ταῦτα ὅτι ἀληθῆ λέγω, δεδίασι μὲν αὐτόν, ἴσως δ' ἂν μοι καὶ μαρτυρῆσαι ἐθελήσειαν· εἰ δὲ μή, τοὺς εἰδότες παρέξομαι μάρτυρας. καὶ μοι κάλει δεῦρο αὐτοὺς πρῶτον.

## MARTTPEZ

43 Οὕτω τοίνυν ἀσελγῆς ὢν καὶ βίαιος καὶ τὴν τῶν ἀδελφῶν οὐσίαν ἀπεστερηκῶς οὐκ ἀγαπᾷ τὰ ἐκείνων ἔχων, ἀλλ' ὅτι δίκην οὐδεμίαν αὐτῶν δέδωκεν, ἥκει καὶ τὰ τοῦ πάππου χρήματα ἡμᾶς ἀποστερήσων, καὶ τούτῳ δύο μνᾶς (ὥς ἀκούομεν) |  
[74] μόνας δεδωκῶς οὐ μόνον περὶ χρημάτων ἡμᾶς ἀλλὰ καὶ περὶ τῆς πατρίδος εἰς κινδύνους καθίστησιν. εἰ γὰρ ἐξαπατηθῆτε ὑμεῖς πεισθέντες ὥς ἡ μήτηρ ἡμῶν οὐκ ἦν πολίτις, οὐδ' ἡμεῖς ἐσμεν· μετ' Εὐκλείδην γὰρ ἄρχοντα γεγόναμεν. ἄρα περὶ μικρῶν τινῶν ἡμῖν τὸν ἀγῶνα κατ-

<sup>1</sup> δέδωκε Sauppe: ἔδωκε.

<sup>2</sup> αὐτῆς Rauchenstein: -οῦ.

<sup>a</sup> The reading *οικοδομήσας* is supported by Hippocraton, s.v. (i.g. κατακλεῖν εἰς οἶκημα), but the meaning is uncertain. Possibly Diocles forcibly detained his brother-in-law from  
316

fortune, he imprisoned the husband of the eldest of them by walling him up <sup>a</sup> and by a plot deprived him of his civic rights, and though he was indicted for outrage he has not yet been punished. As for the husband of the next sister, he ordered a slave to kill him and smuggled away the murderer, and then threw the guilt upon his sister, and having terrified her by his abominable conduct he has robbed her son, whose guardian he became, of his property, and is still in possession of his land and has only given him some stony ground. To prove that what I say is true, his victims, though they are afraid of him, yet may perhaps be willing to support me by their evidence; otherwise, I will produce as witnesses those who know the facts. Please call them first.

## WITNESSES

This man, then, having shown himself so brutal and violent and having robbed his sisters of their fortune, is not content with the possession of their property, but, since he has not been punished, has now come forward to rob us of our grandfather's fortune; and having given our opponent—so we are informed—the paltry sum of two minae is exposing us to the risk of losing not only our property but also our fatherland. For if you are misled into the belief that our mother was not an Athenian citizen, neither are we citizens; for we were born after the archonship of Eucleides.<sup>b</sup> Can it be said, therefore, that the suit which he has trumped up performing some duty to the state and thus caused his disenfranchisement.

<sup>b</sup> The children of mothers who were not citizens, born after 403 B.C., did not enjoy civic rights.

εσκεύακε; καὶ ζῶντος μὲν τοῦ πάππου καὶ τοῦ  
πατρὸς οὐδεμίαν αἰτίαν εἶχομεν, ἀλλ' ἀναμφισβή-  
44 τητοι τὸν ἅπαντα χρόνον διετελέσαμεν· ἐπειδὴ δ'  
ἐκεῖνοι τετελευτήκασι, κἂν νῦν νικήσωμεν, ὄνειδος  
ἔξομεν, διότι ἡμφισβητήθημεν, διὰ τὸν Ὀρέστην  
τοῦτον τὸν κακῶς ἀπολούμενον, ὃς μοιχὸς ληφθεὶς  
καὶ παθὼν ὃ τι προσήκει τοὺς τὰ τοιαῦτα ποιοῦντας  
οὐδ' ὥς ἀπαλλάττεται τοῦ πράγματος, ὡς οἱ συν-  
ειδότες καταμαρτυροῦσι. τοῦτον μὲν οὖν, οἷός ἐστι,  
καὶ νῦν ἀκούετε καὶ αὖθις ἀκριβέστερον πεύσεσθε,  
45 ὅταν κατ' αὐτοῦ τὴν δίκην ἡμεῖς εἰσῴωμεν· ὑμῶν  
δ' ἐγὼ δέομαι καὶ ἱκετεύω, μή με περιίδητε περὶ  
τούτων ὑβρισθέντα τῶν χρημάτων ὧν ὁ πάππος  
κατέλιπε, μηδ' ἀποστερηθέντα, ἀλλὰ βοηθήσατε  
καθ' ὅσον ὑμῶν ἕκαστος τυγχάνει δυνάμενος.  
ἔχετε δὲ πίστεις ἱκανὰς ἐκ μαρτυριῶν, ἐκ βασάνων,  
ἐξ αὐτῶν τῶν νόμων, ὅτι τ' ἐσμέν <ἐκ><sup>1</sup> θυγατρὸς  
γνησίας Κίρωνος, καὶ ὅτι προσήκει ἡμῖν μᾶλλον  
ἢ τούτοις κληρονομεῖν τῶν ἐκείνου χρημάτων,  
46 ἐκγόνοις οὖσι τοῦ πάππου. μνησθέντες οὖν καὶ  
τῶν ὄρκων οὓς ὁμόσαντες δικάζετε, καὶ τῶν  
λόγων οὓς εἰρήκαμεν, καὶ τῶν νόμων, ἧ δίκαιόν  
ἐστι, ταύτη τὴν ψῆφον τίθεσθε.

Οὐκ οἶδ' ὃ τι δεῖ πλείω λέγειν· οἶμαι γὰρ ὑμᾶς  
οὐδὲν ἀγνοεῖν τῶν εἰρημένων. λαβὲ δ' αὐτοῖς τὴν  
μαρτυρίαν τὴν λοιπὴν, ὡς ἐλήφθη μοιχός, καὶ  
ἀνάγνωθι.

<ΜΑΡΤΤΡΙΑ>

<sup>1</sup> ἐκ add. Dobree.

<sup>a</sup> Cf. § 3 and note.

<sup>b</sup> Cf. Aristoph. *Clouds*, 1083; and Suidas, s.v. *ραφανίς*.

<sup>c</sup> Probably an allusion to the indictment for *ὑβρις* men-

against us is of only trifling importance? While our grandfather and our father were alive, no charge was ever brought against us and our rights were never impeached; but now that they are dead, even if we win our case, we shall always bear the stigma of having had our rights disputed, thanks to this accursed Orestes,<sup>a</sup> who, taken in adultery and having suffered the treatment which befits such evil-doers,<sup>b</sup> has not even so abandoned the practice, as those who know the facts can testify. You know now the character of this fellow, and you will learn about it in still greater detail, when our suit against him comes on.<sup>c</sup> But do not, I beg and implore you, allow me to be insulted and robbed in the matter of this money which my grandfather left, but help me as far as each of you is able. Ample proof is before you from depositions, evidence given under torture, and the laws themselves that we are the children of a legitimate daughter of Ciron and that we have a better right than our opponents to inherit our grandfather's property as his lineal descendants. Remember, therefore, the oaths under which you sit in judgement, the arguments which we have presented, and the laws, and give your verdict as justice demands.

I do not know of anything which I ought to add; for I think that nothing which I have said has escaped your attention. Now take the only remaining deposition, proving that Diocles was taken in adultery, and read it to the court.

## DEPOSITION

tioned in § 41; see p. 449 for the evidence of the speech composed by Isaeus for delivery in this suit.





IX. ON THE ESTATE OF  
ASTYPHILUS

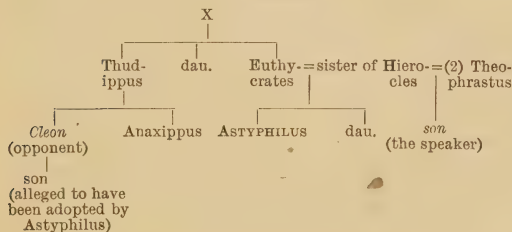


## IX. ON THE ESTATE OF ASTYPHILUS

### INTRODUCTION

ASTYPHILUS, the son of Euthycrates,<sup>a</sup> after having fought in several campaigns, died while serving at Mytilene. When the news of his death reached Athens, his first cousin Cleon seized possession of his estate in the name of his own son, whom he alleged to have been adopted by Astyphilus in a will which was deposited with Hierocles. The sister of this Hierocles had been married twice, first, to Euthycrates, by whom she was mother of Astyphilus, and, secondly, to Theophrastus, whose son is the speaker of this oration. The deceased was, therefore, the half-brother of the speaker and the first cousin of Cleon, his opponent.

#### <sup>a</sup> STEMMA



## ISAEUS

The main contentions of the speaker are that the will produced by Cleon and Hierocles is a forgery and that he himself has a better legal and moral claim to the estate. To prove the first point he has to rely on circumstantial evidence. Why, he asks, should Astyphilus have made a will before setting out for Mytilene, though he had never done so before his other campaigns, and why did he choose for adoption the son of his bitterest enemy? The real instigator of the claim is, he alleges, not his nominal opponent Cleon but Hierocles, who had gone round offering to produce a will in favour of anyone who would agree to share the spoils with him.

The speaker bases his moral right to inherit the estate of his half-brother on the grounds that the deceased had experienced many benefits from himself and his family and had lived on terms of the closest affection with them. Astyphilus, when his mother remarried, was still a young child and had accompanied her to the house of her second husband Theophrastus, who had brought him up with his own son, the speaker; on the other hand, he had never in his life even addressed a word to Cleon, who, the speaker alleges, had been the cause of the death of Astyphilus's father, Euthycrates. As for the legal claim, it is admitted as a general principle of Attic law that, if a man dies intestate, his relatives on the paternal side as far as the children of first cousins have preference over all the relatives on the maternal side; in the present case, however, the half-brother claims that he has a better right to the estate than the cousin, in view of the fact that Cleon had been adopted into another family

## ON THE ESTATE OF ASTYPHILUS

and had thus renounced all claim to inherit from a relative in the family out of which he had been adopted.

The case is well argued and the material skilfully arranged, but it is hardly one which would recommend itself to a modern jury. In particular, no convincing proof is adduced for setting aside the will and no objection is raised to any of the circumstances connected with it; for example, none of the usual allegations are made against those who had witnessed it. Moreover, Hierocles, if we disregard the vague assertions made against him by the speaker, would seem *prima facie* a suitable depositary for the will, since he was a relative and did not benefit under it.

Seeing that Astyphilus died during an expedition to Mytilene, it would be easy to fix the date of the speech if we had any conclusive evidence of such an expedition. We are informed that Astyphilus had previously served in the Theban war (378-371 B.C.), so that the speech cannot be earlier than some little time after 371 B.C. The years immediately following 371 B.C. were not apparently marked by any military activity on the part of Athens, and no operations are known to have been undertaken until 366 B.C., when Timotheus commanded an Athenian force in the eastern Aegean; it is possible that Athenian troops were landed at Mytilene in the course of these operations. The names of Cleon and various other members of the family occur in inscriptions, without, however, throwing any light on the question of the date of the speech.

## ΙΧ. ΠΕΡΙ ΤΟΥ ΑΣΤΥΦΙΛΟΥ ΚΛΗΡΟΥ

### ΥΠΟΘΕΣΙΣ

Ἀστυφίλος καὶ ὁ λέγων τὸν λόγον ἀδελφοὶ ὁμομήτριοι· τελευτήσαντος δὲ τοῦ Ἀστυφίλου διαθήκας προήνεγκε Κλέων τις, ἀνεψιὸς ὢν αὐτοῦ, φάσκων αὐτὰς γενέσθαι εἰς τὸν υἱὸν ἑαυτοῦ. ὁ δὲ ἀδελφὸς τοῦ Ἀστυφίλου κατηγορεῖ τῶν διαθηκῶν ὡς πλαστῶν. ἡ στάσις στοχασμός.

- 1 Ἀδελφός μοι ἦν ὁμομήτριος, ὦ ἄνδρες, Ἀστυφίλος, οὗ ἐστὶν ὁ κλῆρος· ἀποδημήσας οὖν μετὰ τῶν εἰς Μυτιλήνην στρατιωτῶν ἐτελεύτησε. πειράσομαι δ' ὑμῖν ἐπιδείξαι ὅπερ ἀντῴμοσα, ὥς οὔτε ἐποίησατο ἐκεῖνος υἱὸν ἑαυτῷ, οὔτ' ἔδωκε τὰ ἑαυτοῦ, οὔτε διαθήκας κατέλιπεν, οὔτε προσήκει
- 2 ἔχειν τὰ Ἀστυφίλου οὐδενὶ ἄλλῳ ἢ ἐμοί. ἔστι γὰρ [ὁ] Κλέων οὕτοσὶ ἀνεψιὸς Ἀστυφίλῳ πρὸς πατρός, ὁ δὲ υἱὸς ὁ τούτου, ὃν εἰσποιεῖ ἐκείνῳ, ἀνεψιαδοῦς. εἰσποίητος δ' ἦν ὁ πατήρ ὁ Κλέωνος εἰς ἄλλον οἶκον, καὶ οὗτοι ἔτι εἰσὶν ἐν ἐκείνῳ τῷ οἴκῳ, ὥστε γένει μὲν διὰ τὸν νόμον οὐδὲν προσήκουσιν Ἀστυφίλῳ. ἐπειδὴ δὲ κατὰ ταῦτα οὐκ ἦν ἀμφισβήτησις, διαθήκας, ὦ ἄνδρες, ψευδεῖς (ὡς ἐγὼ οἶμαι ἐπιδείξειν) κατεσκεύασαν καὶ ζητοῦσιν

## IX. ON THE ESTATE OF ASTYPHILUS

### ARGUMENT

Astyphilus and the speaker of this oration were half-brothers, children of the same mother. On the death of Astyphilus a certain Cleon, his first cousin, produced a will, alleging that it had been made in favour of his own son. The brother of Astyphilus attacks the will as being a forgery. The discussion turns on a question of fact.

Astyphilus, the owner of the estate, was my half-brother, gentlemen, the son of my mother. He went abroad with the force which sailed to Mytilene, and died there. I shall try and prove to you what I stated in my affidavit, namely, that the deceased did not adopt a son, that he did not bequeath his property, that he left no will, and that no one except myself has a right to the estate of Astyphilus. Cleon, my adversary, is first cousin to Astyphilus on his father's side, and his son, whom he pretends that Astyphilus adopted, is his first cousin once removed. Cleon's father, however, passed by adoption into another family, and they still belong to that family, so that in law they have no sort of relationship with Astyphilus. Seeing that they had no claim on these grounds, gentlemen, they concocted a will, which, as I think I shall be able to prove, is a forgery, and

## ISAEUS

3 ἀποστερησαί με τῶν τᾶδελεφού.<sup>1</sup> καὶ οὕτω σφόδρα  
Κλέων οὐτοσί καὶ πρότερον καὶ νῦν οὐδένα ἄλλον  
τὸν κλῆρον ἡγεῖται ἕξειν ἢ αὐτόν, ὥστ' ἐπειδὴ  
τάχιστα ἡγγέλθη Ἀστυφίλος τετελευτηκώς, τοῦ  
μὲν πατρός τοῦ ἐμοῦ ἀσθενούντος, ἐμοῦ δὲ οὐκ  
ἐπιδημούντος ἀλλὰ στρατευομένου, εἰς τὸ χωρίον  
ἐνεβάτευσε, καὶ εἴ τι ἄλλο ἐκεῖνος κατέλιπεν,  
ἅπαντα ἔφη τοῦ υἱοῦ τοῦ ἑαυτοῦ εἶναι, πρὶν τι  
4 ὑμᾶς ψηφίσασθαι. ἐπεὶ δ' ἐκομίσθη τὰ ὅστα τοῦ  
ἀδελφοῦ, ὁ μὲν προσποιούμενος πάλαι υἱὸς εἰς-  
[75] πεποιῆσθαι οὐ προὔθετο οὐδ' ἔθαιψεν, | οἱ δὲ φίλοι  
Ἀστυφίλου καὶ οἱ συστρατιῶται, ὁρῶντες τὸν  
πατέρα τὸν ἐμὸν ἀρρωστοῦντα, ἐμὲ δὲ οὐκ ἐπι-  
δημούντα, αὐτοὶ καὶ προὔθεντο καὶ τᾶλλα πάντα τὰ  
νομιζόμενα ἐποίησαν καὶ τὸν ἐμὸν πατέρα ἀσθε-  
νούντα ἐπὶ τὸ μνήμα ἤγαγον, εὖ εἰδότες ὅτι ἀσπάζ-  
οιτο αὐτὸν Ἀστυφίλος. τούτου δ' ὑμῖν αὐτοὺς  
τοὺς ἐπιτηδείους τοὺς ἐκείνου μάρτυρας παρέξομαι  
τῶν παρόντων.

### ΜΑΡΤΥΡΕΣ

5 Ὅτι μὲν οὐκ ἔθαιψε Κλέων Ἀστυφίλον, οὐδ'  
<ἂν><sup>2</sup> αὐτὸς ἕξαρνος γένοιτο μεμαρτύρηταί τε ὑμῖν.  
ἐπειδὴ δ' ἐπεδήμησα ἐγὼ καὶ ἡσθόμην καρπου-  
μένους τούτους τὰ ἐκείνου, . . . ὁ [δὲ] υἱὸς αὐτοῦ  
ποιηθείη ὑπὸ Ἀστυφίλου, καὶ τούτων διαθήκας  
καταλίποι παρὰ Ἱεροκλεῖ Ἱφιστιάδῃ.<sup>3</sup> ἀκούσας

<sup>1</sup> τῶν τᾶδελεφού Reiske : τοῦ (τῶν A<sup>1</sup>) ἀδελφοῦ.

<sup>2</sup> ἂν add. Bekker.

<sup>3</sup> Ἱφιστιάδῃ Thalheim : ἡφαισιτίδῃ.

<sup>a</sup> There is a lacuna in the text at this point. "Post τὰ ἐκείνου restitui lacuna. [*Adii Cleonem, qui dixit*] suum filium ab Astyphilo adoptatum esse" (Dobree, *Adversaria*, i. p. 305).



## ON THE ESTATE OF ASTYPHILUS, 3-5

are trying to deprive me of my brother's estate. So confident, indeed, has Cleon here always been, and still is, that no one but himself is to have the estate, that, as soon as the news of Astyphilus's death was reported—my father being ill at the time and I abroad on military service—he entered into possession of the landed estate and declared that anything else which Astyphilus left belonged to his own son, without ever giving you the opportunity to decide the matter. When, however, my brother's remains were brought home, the person who claims to have been long ago adopted as his son did not lay them out or bury them, but Astyphilus's friends and companions-in-arms, seeing that my father was ill and I was abroad, themselves laid out the remains and carried out all the other customary rites, and conducted my father, ill though he was, to the tomb, well knowing the affection in which Astyphilus held him. I will produce before you the friends of the deceased, who were amongst those who were present, as witnesses of this.

### WITNESSES

That Cleon did not bury Astyphilus, even he himself would not deny, and evidence of the fact has been given you. On my return home I found my opponents in enjoyment of the property of the deceased; [I, therefore, sought out Cleon, who informed me that]<sup>a</sup> his son had been adopted by Astyphilus, and that the latter had left a will to this effect in the keeping of Hierocles of Iphistiadae.<sup>b</sup>

<sup>b</sup> A deme of the tribe of Acamantis, situated on the left bank of the Cephissus.

## ISAEUS

δ' ἐγὼ λέγοντος αὐτοῦ ταῦτα ἐπορευόμην παρὰ  
τὸν Ἱεροκλέα, εὖ μὲν εἰδὼς ὅτι ὡς οἶόν τε μάλιστα  
6 ἐπιτήδειος εἶη Κλέωνι, οὐχ ἡγούμενος δ' ἂν αὐτὸν  
τολμῆσαι τι ψεύσασθαι κατὰ Ἀστυφίλου τετε-  
λευτηκότος, καὶ ταῦτα θείον ὄντα καὶ ἐμοῦ καὶ  
ἐκείνου. ὅμως δέ, ὦ ἄνδρες, οὐδὲν τούτων ὑπο-  
λογισάμενος ὁ Ἱεροκλῆς ἐρωτώμενος ὑπ' ἐμοῦ  
ἀπεκρίνατό μοι ὅτι ἔχοι τὰς διαθήκας· λαβεῖν δὲ  
ἔφη αὐτὰς παρὰ Ἀστυφίλου, ὅτε εἰς Μυτιλήνην  
ἔμελλεν ἐκεῖνος ἐκπλεῖν. ὡς δὲ ταῦτ' ἔλεγεν,  
ἀνάγνωθί μοι ταύτην τὴν μαρτυρίαν [ὅτι Ἱερο-  
κλῆς ἀπέκρινε].

## ΜΑΡΤΥΡΙΑ

7 Ἐπειδὴ τοίνυν, ὦ ἄνδρες, οὔτε παραγενόμενος  
οὐδείς ἔτυχε τῶν οἰκείων ὅτε ὁ ἀδελφὸς ἐτε-  
λεύτησεν, οὔτε ἐγὼ ἐπεδήμουν ὅτε τὰ ὀστᾶ αὐτοῦ  
δεῦρο ἐκομίσθη, ἀναγκαῖόν μοι ἔστιν ἐξ αὐτῶν  
ᾧν οὔτοι λέγουσιν ἐλέγχειν ψευδεῖς οὔσας τὰς  
διαθήκας [ᾧς ἐποίησαντο]. εἰκὸς γὰρ ἐκείνον  
οὐ μόνον ἐπιθυμῆν ὑὸν ποιησάμενον καταλιπεῖν,  
ἀλλὰ καὶ σκοπεῖσθαι ὅπως κυριώτατα ἔσται ἃ  
ἂν διαθῇται, καὶ τήν τε οὐσίαν, ὃν ἂν ἐκεῖνος  
εἰσποιήσῃται, οὗτος ἔξει, καὶ ἐπὶ τοὺς βωμοὺς  
τοὺς πατρώους οὗτος βαδιεῖται, καὶ τελευτήσαντι  
αὐτῷ καὶ τοῖς ἐκείνου προγόνοις τὰ νομιζόμενα  
8 ποιήσει· ἅπαντα δὲ ταῦτα μάλιστ' ἂν εἰδέναι ὅτι  
γένοιτο,<sup>1</sup> εἰ μὴ ἄνευ τῶν οἰκείων τῶν ἑαυτοῦ τὰς  
διαθήκας ποιοῖτο, ἀλλὰ πρῶτον μὲν συγγενεῖς  
παρακαλέσας, ἔπειτα δὲ φράτορας καὶ δημότας,  
ἔπειτα τῶν ἄλλων ἐπιτηδείων ὅσους δύναιτο πλεί-

<sup>1</sup> γένοιτο Dobree : γένοιτο.

## ON THE ESTATE OF ASTYPHILUS, 5-8

On hearing this from him I proceeded to the house of Hierocles, knowing full well that he was on terms of the closest possible intimacy with Cleon, though I never thought that he would dare to lie against the wishes of Astyphilus now that he was dead, especially as he was his uncle as well as mine.<sup>a</sup> Nevertheless, gentlemen, regardless of these considerations, Hierocles in reply to my questions stated that the will was in his possession and said that he had received it from Astyphilus when he was on the point of sailing to Mytilene. And to prove that he made these statements, please read this deposition.

### DEPOSITION

Since, then, gentlemen, no one of my brother's relatives was present when he died and I was abroad when his remains were brought hither, I am obliged to use the actual statements of my adversaries to prove that the will is a forgery. It is only reasonable to suppose that Astyphilus did not merely feel a desire to adopt a son, but also provided that whatever dispositions he made should be as effectual as possible, and that, whomsoever he adopted, that person should both possess his estate and have access to his ancestral altars and perform all the customary rites for himself after his death and for his forefathers. He would be assured that all these intentions would be best effected, not if he made his will without the attestation of any of his friends, but if he summoned first his kinsmen, then the members of his ward and deme, and finally as many as possible of his other acquaintances; for then

<sup>a</sup> The sister of Hierocles was mother of Astyphilus and of the speaker, *cf.* §§ 23, 27.

## ISAEUS

στοις· οὕτω γὰρ εἴτε κατὰ γένος εἴτε κατὰ δόσιν ἀμφισβητοῖη τις, ῥαδίως ἂν ἐλέγχοιτο ψευδόμενος.  
 9 ὁ τοίνυν Ἀστύφιλος οὐδὲν φαίνεται τοιοῦτον ποιήσας, οὐδὲ παραστησάμενος οὐδένα τούτων ὅτε διέθετο ἃ οὗτοί φασιν, εἰ μὴ τις ἄρα ὑπὸ τούτων πέπεισται ὁμολογεῖν παρεῖναι. αὐτὸς δ' ὑμῖν πάντας τούτους μαρτυροῦντας παρέξομαι.

## ΜΑΡΤΥΡΕΣ

- 10 Ἴσως τοίνυν Κλέων οὕτοσι φήσει<sup>1</sup> οὐκ εἰκὸς εἶναι τεκμηρίοις ὑμᾶς χρήσασθαι τούτοις τοῖς μάρτυσιν, ὅτι μαρτυροῦσι μὴ εἰδέναι Ἀστύφιλον ταῦτα διατιθέμενον. ἐγὼ δ' οἶμαι, περὶ γε διαθηκῶν οὔσης τῆς ἀμφισβητήσεως καὶ περὶ τοῦ ποιηθῆναί τινα ὑὸν Ἀστυφίλῳ, ἡμῖν πολὺ βεβαιότεραν εἶναι μαρτυρίαν ἣν οἱ ἀναγκαῖοι <οἱ><sup>2</sup> ἐκείνου περὶ τῶν μεγίστων μὴ φασι παραγενέσθαι, μᾶλλον ἢ ἣν οἱ μὴδὲν προσήκοντες μαρτυροῦσι παρεῖναι.  
 11 καὶ ἐχρήν δ', ὦ ἄνδρες, καὶ αὐτὸν Κλέωνα, μὴ δοκοῦντα εἶναι ἡλίθιον, ὅτε τὸν ὑὸν τὸν τούτου ἐποιεῖτο Ἀστύφιλος καὶ τὰς διαθήκας κατέλειπε, παρακαλέσαι εἴ τέ<sup>3</sup> τινα συγγενῇ ἐπιδημοῦντα ἐγίγνωσκε, καὶ τοὺς ἄλλους, ὅτῳ περ ἔμβραχυν<sup>4</sup> ᾗδει Ἀστύφιλον χρώμενον. κωλύσαι μὲν γὰρ οὐδεὶς ἂν αὐτὸν ἐδύνατο, ὅτῳ ἐβούλετο, δοῦναι τὰ ἑαυτοῦ· τούτῳ δ' ἂν μεγάλη μαρτυρία ᾗν, ὅτι  
 12 οὐ λάθρα ταῦτα διέθετο. ἔτι δ', ὦ ἄνδρες, εἰ μὲν ὁ Ἀστύφιλος μὴδένα ἐβούλετο εἰδέναι ὅτι τὸν Κλέωνος ὑὸν ἐποιεῖτο μὴδ' ὅτι διαθήκας καταλίποι,

<sup>1</sup> φήσει Naber: φησιν. <sup>2</sup> οἱ add. Sauppe. <sup>3</sup> τέ Dobree: γέ.

<sup>4</sup> περ ἔμβραχυν Cobet: ἐπιβραχύ περ.

## ON THE ESTATE OF ASTYPHILUS, 8-12

anyone who might claim the estate either as next-of-kin or as legatee could be easily convicted of false pretences. Astyphilus is shown to have taken none of these precautions, and not to have summoned any of the persons whom I have mentioned when he made the will which my opponents allege that he made—unless, indeed, anyone has been suborned by them to state that he was present. I will myself produce all these persons before you as witnesses.

### WITNESSES

Cleon will perhaps contend that you ought not to draw any conclusions from the evidence of these witnesses, because they merely depose that they have no knowledge of the making of this will by Astyphilus. But in my opinion, since the controversy is about a will and about the adoption of a son by Astyphilus, more weight should be attached by you to the evidence of the intimate friends of the deceased, when they declare that they were not present on so important an occasion, than to the evidence of those who have no connexion with him, to the effect that they were present. Moreover, Cleon himself, being apparently no fool, when Astyphilus was adopting his son and making the will, ought to have summoned any relatives whom he knew to be in the city and practically any other person with whom he knew Astyphilus to be intimate. For no one could have prevented Astyphilus from devising his property to whomsoever he wished; but the fact that the will was not made in secret, would have been strong evidence in Cleon's favour. Furthermore, gentlemen, if Astyphilus wished that no one should know that he was adopting Cleon's

- εἰκὸς ἦν μηδὲ ἄλλον μηδένα ἐγγεγράφθαι ἐν τῷ  
 γραμματείῳ μάρτυρα· εἰ δ' ἐναντίον μαρτύρων  
 φαίνεται διαθέμενος, τούτων δὲ μὴ τῶν μάλιστα  
 χρωμένων ἀλλὰ τῶν ἐντυχόντων, πῶς εἰκὸς ἐστίν  
 13 ἀληθεῖς εἶναι τὰς διαθήκας; οὐ γὰρ <ἂν><sup>1</sup> ἡγοῦμαι  
 ἔγωγε οὐδένα, ὕδν ἐαυτῷ ποιούμενον, τολμῆσαι  
 [76] ἄλλους τινὰς παρακαλέσαι ἢ | τούτους, οἷς<sup>2</sup> περ  
 καὶ ἱερῶν καὶ ὁσίων κοινωνόν<sup>3</sup> ἀνθ' αὐτοῦ εἰς τὸν  
 ἔπειτα χρόνον ἔμελλε καταλιπεῖν. ἀλλὰ μὴν οὐδ'  
 αἰσχυνηθῆναι οὐδενὶ προσήκει ἐπὶ τοιαύταις δια-  
 θήκαις ὡς πλείστους μάρτυρας παρίστασθαι, νόμου  
 γε ὄντος ἐξεῖναι ὅτῳ βούλοιο δοῦναι τὰ ἑαυτοῦ.  
 14 Σκέψασθε δέ, ὦ ἄνδρες, καὶ ἐκ τοῦ χρόνου ὃν  
 οὔτοι λέγουσι περὶ τῶν διαθηκῶν. ὅτε γὰρ εἰς  
 Μυτιλήνην ἐξέπλει στρατευόμενος, τότε φασὶν  
 αὐτὸν ταῦτα διαθέσθαι· φαίνεται δὲ ὁ Ἀστυφίλος  
 τῷ τούτων λόγῳ τὰ μέλλοντα ἅπαντα ἔσεσθαι  
 προειδώς. πρῶτον μὲν γὰρ ἐστρατεύσατο εἰς  
 Κόρινθον, ἔπειτα εἰς Θετταλίαν, ἔτι δὲ τὸν Θη-  
 βαϊκὸν πόλεμον ἅπαντα, καὶ ἄλλοσε ὅπου περ  
 αἰσθάνοιτο στράτευμα συλλεγόμενον, ἅπανταχοῖ<sup>4</sup>  
 ἀπεδήμει λοχαγῶν· καὶ οὐδ' ἐν μιᾷ τούτων τῶν  
 ἐξόδων διαθήκας κατέλιπεν. ἢ δὲ εἰς τὴν Μυτι-  
 λήνην στρατεία τελευταία αὐτῷ ἐγένετο, ἐν ᾗ καὶ  
 15 ἀπέθανε. τῷ οὖν ἂν ὑμῶν φανείη πιστόν, πρό-  
 τερον ἄλλας στρατείας τοῦ Ἀστυφίλου στρα-  
 τευομένου καὶ εὖ εἰδότης ὅτι ἐν ἀπάσαις μέλλοι

<sup>1</sup> ἂν add. Scheibe.

<sup>2</sup> οἷς Dobree: οὓς.

<sup>3</sup> κοινωνόν Dobree: κοινωνοὺς.

<sup>4</sup> ἅπανταχοῖ Reiske: -ῆ.

<sup>a</sup> See Introduction, p. 325.

son or that he had left a will, no one else's name ought to have been inscribed in the document as witness ; but if it appears that he made a will in the presence of witnesses, and those witnesses were not taken from among those who were most intimate with him but were chance persons, is there any probability that the will is genuine ? For my part I cannot believe that anyone, when he was adopting a son, would have ventured to summon as witnesses any other persons except those with whom he was about to leave that son, to take his own place as an associate for the future in their religious and civic acts. Moreover, no one ought to be ashamed of summoning the largest possible number of witnesses to the execution of such a will, when there is a law which permits a man to bequeath his property to whomsoever he wishes.

Now consider the matter, gentlemen, from the point of view of the date which my opponents assign to the will. They say that he made these dispositions when he was sailing for Mytilene on military service ; it is clear then from their account that he knew beforehand all that fate had in store for him ! For he served first at Corinth, then in Thessaly and again throughout the Theban war,<sup>a</sup> and wherever else he heard of an army being collected, he went abroad holding a command ; yet never on his departure for any one of these campaigns did he leave a will behind him. The expedition to Mytilene was his last, for in it he perished. Who among you can believe it possible that the decrees of fate should correspond so exactly with Astyphilus's conduct, that when he was preparing for other campaigns and was well aware that he was going to run risks on



κινδυνεύειν, οὕτως ἀκριβῶς τὰ παρὰ τῆς τύχης συμβῆναι, ὥστ' ἐν μὲν τῷ πρόσθεν χρόνῳ μηδὲ περὶ ἐνὸς αὐτὸν τῶν αὐτοῦ διαθέσθαι, ὅτε δὲ τὸ τελευταῖον ἔμελλε στρατεύεσθαι, ἐθελοντὴν τε ἐκπλέοντα<sup>1</sup> καὶ μάλιστα ἐκ ταύτης τῆς στρατείας ἐλπίζοντα σωθήσεσθαι (πῶς τοῦτον πιστὸν ἤδη<sup>2</sup>;) τὰς διαθήκας τότε καταλιπεῖν καὶ ἐκπλεύσαντα τελευτήσαι;

- 16 Χωρὶς δὲ τούτων, ὦ ἄνδρες δικασταί, ἔτι μείζω τεκμήρια παρέξομαι ὥς οὐδὲν ἀληθὲς λέγουσιν οὔτοι. ἐπιδείξω γὰρ ὑμῖν ἔχθιστον ἀπάντων ὄντα Ἀστυφίλον Κλέωνι, καὶ οὕτω σφόδρα καὶ δικαίως μισοῦντα τοῦτον, ὥστε πολὺ ἂν<sup>3</sup> θάττον διαθέμενον μηδένα ποτὲ τῶν ἑαυτοῦ οἰκείων διαλεχθῆναι Κλέωνι, μᾶλλον ἢ τὸν τούτου υἱὸν ποιη-  
17 σάμενον.<sup>4</sup> Εὐθυκράτει γάρ, ὦ ἄνδρες, τῷ πατρὶ τῷ Ἀστυφίλου αἴτιος γενέσθαι λέγεται τοῦ θανάτου Θούδιππος ὁ Κλέωνος τουτουῖ<sup>5</sup> πατήρ, αἰκισάμενος ἐκείνων διαφορᾶς τινος αὐτοῖς γενομένης ἐν τῇ νεμήσει τοῦ χωρίου, καὶ οὕτως αὐτὸν διατεθῆναι, ὥστε ἐκ τῶν πληγῶν αὐτὸν ἀσθενήσαντα  
18 οὐ πολλαῖς ἡμέραις ὕστερον ἀποθανεῖν. ὥς δὲ ταῦτ' ἐστὶν ἀληθῆ, ἴσως μὲν καὶ Ἀραφηνίων<sup>6</sup> καὶ πολλοὶ τῶν τότε συγγεωργούντων μαρτυρήσειαν<sup>7</sup> ἂν μοι, διαρρήδην δὲ περὶ τηλικούτου πράγματος οὐκ ἂν ἔχοιμι ὅπως ὑμῖν παρασχοίμην. καὶ γὰρ αὐτὸν τυπτόμενον ἰδὼν Ἱεροκλῆς, ὁ τὸ γραμματεῖον φάσκων παρ' ἑαυτῷ τεθῆναι, οἶδ' ὅτι οὐκ ἂν

<sup>1</sup> ἐκπλέοντα Dobree: ἐκπλεῖν τῷ.

<sup>2</sup> ἤδη Aldus: ἡδεῖ.

<sup>3</sup> ἂν Dobree: δῆ.

<sup>4</sup> ποιησάμενον Reiske: -όμενον.

<sup>5</sup> τουτουῖ Scheibe: τούτου.



## ON THE ESTATE OF ASTYPHILUS, 15-18

all of them, on no previous occasion did he make any disposition of his property, yet when he was about to set out on his last expedition, going out as a volunteer with every prospect of returning safe and sound from this campaign, on this occasion only did he make a will and then sail away and lose his life? How can you credit such a coincidence?

But besides this, judges, I will produce still stronger indications that there is no truth in what my opponents say. I will prove to you that Astyphilus had no such bitter enemy as Cleon, and hated him so much and with such good cause, that he would have been much more likely to have arranged that no one of his family should ever speak to Cleon than to have adopted his son. For the death of Euthykrates, the father of Astyphilus, is said to have been caused by an assault made upon him by Thudippus, the father of Cleon here, in the course of a quarrel which arose between them over the division of their land, and he is said to have received such treatment that he fell ill as a result of the blows and died not many days later. That this story is true, many of the Araphenians,<sup>a</sup> who were tilling their land at the time, would probably testify for me, but I could not find anyone to give positive evidence in so grave a matter. Hierocles, the man who alleges that the will was deposited in his custody, saw Euthykrates struck, but I am sure that he

<sup>a</sup> Members of the deme of Araphen in Eastern Attica, to which both the brothers belonged:

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<sup>6</sup> Ἀραφηνίων Palmer: ῥάφηνίων (sic).

<sup>7</sup> μαρτυρήσειαν Scheibe: -αιεν.

## ISAEUS

ἐθελήσειε<sup>1</sup> μαρτυρῆσαι ἐναντία ταῖς διαθήκαις αἷς αὐτὸς ἀποφαίνει. ὅμως μέντοι καὶ κάλει Ἱεροκλέα, ἵνα ἐναντίον τούτων μαρτυρήσῃ ἢ ἐξομώσῃται.

### ΕΞΩΜΟΣΙΑ <sup>2</sup>

- 19 Ἀκριβῶς μὲν ἦδεν· τοῦ γὰρ αὐτοῦ ἀνδρός ἐστιν, ἃ μὲν οἶδεν, ἐξόμνησθαι, τῶν δὲ μὴ γενομένων πίστιν ἐθέλειν ἐπιθεῖναι ἢ μὴν εἰδέναι γενόμενα· ὥς δέ, ὅτε ἀπέθνησκειν [ὁ] Εὐθυκράτης ὁ πατὴρ Ἀστυφίλου, ἐπέσκηψε τοῖς οἰκείοις μηδένα ποτὲ ἐᾶσαι<sup>3</sup> ἐλθεῖν τῶν Θουδίππου ἐπὶ τὸ μνήμα τὸ ἑαυτοῦ, τούτων ὑμῖν τὸν<sup>4</sup> ἔχοντα τὴν τηθίδα τοῦ Ἀστυφίλου μάρτυρα<sup>5</sup> παρέξομαι.

### ΜΑΡΤΥΡΙΑ

- 20 Ἀκούων τοίνυν ταῦτα ὁ Ἀστυφίλος καὶ τούτου καὶ τῶν ἄλλων προσηκόντων εὐθέως ἐκ παιδίου,<sup>6</sup> ἐπειδὴ τάχιστα ἤρχετο φρονεῖν, οὐδὲ πώποτε διελέχθη Κλέωνι, ἀλλὰ πρότερον ἐτελεύτησεν, οὐχ ἡγούμενος ὅσιον εἶναι, τοιαύτην αἰτίαν ἔχοντος Θουδίππου περὶ τὸν αὐτοῦ πατέρα, τῷ ἐκείνου υἱεὶ διαλέγεσθαι. ὥς οὖν τὸν ἅπαντα χρόνον διάφορος ἦν Κλέωνι, τούτων ὑμῖν τοὺς συνειδότας μάρτυρας παρέξομαι.

### ΜΑΡΤΥΡΕΣ

- 21 Εἰς τὰς θυσίας τοίνυν, ἐν αἵσπερ οἱ ἄλλοι Ἀθηναῖοι ἐστιῶνται, πρῶτον μὲν δημότην ὄντα, ἔπειτα

<sup>1</sup> ἐθελήσειε Dobree: -ση.

<sup>2</sup> ἐξωμοσία Baiter-Sauppe: μαρτυρία.

<sup>3</sup> ἐᾶσαι Baiter: ἐάσειν.

<sup>4</sup> τὸν Buermann: τὴν.

<sup>5</sup> μάρτυρα Stephanus: μαρτυρίαν.

<sup>6</sup> παιδίου Dobree: παίδων.

## ON THE ESTATE OF ASTYPHILUS, 18-21

would not be willing to give evidence to the detriment of the will which he is himself producing. But for all that, summon Hierocles that he may give his evidence before the court or else swear to his ignorance of the fact.

### OATH OF IGNORANCE

I was quite sure he would say this ; for it is quite in the same character for a man to swear that he is ignorant of facts which he really knows and to be willing to pledge his oath to the truth of what has never really happened. However, to prove that Euthykrates, the father of Astyphilus, on his death-bed charged his friends never to allow any of Thudippus's family to come near his tomb, I will produce as witness before you the husband of Astyphilus's aunt.

### EVIDENCE

Astyphilus, then, hearing of this in childhood from his uncle and his other relatives, as soon as he reached the age of reason, would never speak to Cleon, and maintained this attitude up to his death, holding the opinion that it was impious to speak to the son of Thudippus, when the latter was charged with so grave a crime against his father. To prove that he remained throughout his life at variance with Cleon, I will produce as witnesses before you those who know the facts.

### WITNESSES

It would have been only natural, I suppose, for Astyphilus, whenever he was at home, to attend the sacrifices, at which all the Athenians entertain one

ἀνεψιόν, ἔτι δὲ τὸν υἱὸν τὸν τούτου μέλλοντα ποιῆσθαι, εἰκὸς δὴπου ἦν, ὅποτε περ ἐπιδημοίη,<sup>1</sup> μηδὲ μεθ' ἐνὸς ἄλλου ἰέναι<sup>2</sup> τὸν Ἀστυφίλον ἢ μετὰ Κλέωνος. ὥς τοίνυν οὐδέποτ' ἦλθε μετ' αὐτοῦ,  
[77] ὑμῖν τῶν δημοτῶν μαρτυρίαν | ἀναγνώσεται.

ΜΑΡΤΥΡΙΑ

- 22 Οὕτως τοίνυν διακείμενος τῷ τετελευτηκότῳ Κλέων ἀξιοῖ τὸν υἱὸν τὸν ἑαυτοῦ τὰ ἐκείνου ἔχειν. καὶ τί δεῖ τοῦτον λέγειν; ἀλλ' Ἱεροκλῆς, θεῖος ὢν καὶ <ἐκείνῳ καὶ><sup>3</sup> ἐμοί, οὕτως ἐστὶ τολμηρὸς ὥστε οὐ γενομένας διαθήκας ἥκει φέρων, καὶ φησι παρ' 23 ἑαυτῷ Ἀστυφίλον ταύτας καταλιπεῖν. καίτοι, Ἱερόκλεις, πολλὰ καὶ ἀγαθὰ παθὼν ὑπὸ Θεοφράστου τοῦ πατρὸς τοῦ ἐμοῦ, ὅτε χεῖρον ἔπραττες ἢ νυνί, καὶ ὑπὸ Ἀστυφίλου, οὐδετέρῳ αὐτοῖν τὴν ἀξίαν χάριν ἀποδίδως· ἐμὲ μὲν γάρ υἱὸν ὄντα Θεοφράστου, σαυτῷ δὲ ἀδελφιδοῦν, ἀποστερεῖς ἃ μοι οἱ νόμοι ἔδωκαν, Ἀστυφίλου δὲ τεθνεώτος καταψεύδῃ, καὶ τὸ κατὰ σαυτὸν μέρος τοὺς ἐχθίστους 24 καθίστης τῶν ἐκείνου κληρονόμους. καὶ πρὶν μὲν ληχθῆναι τοῦ κλήρου, ὦ ἄνδρες, εὖ εἰδὼς ὁ Ἱεροκλῆς ὅτι οὐδενὶ ἄλλῳ γίγνοιτο τὰ Ἀστυφίλου ἢ ἐμοί, ἐν μέρει ἐκάστῳ τῶν ἐκείνου ἐπιτηδείων προσήει πωλὼν τὸ πρᾶγμα καὶ τοὺς οὐδὲν προσήκοντας πείθων ἀμφισβητεῖν, λέγων ὅτι θεῖος εἴη Ἀστυφίλῳ καὶ ἀποφανοίῃ<sup>4</sup> διαθήκας ἐκείνον καταλελοιπότα, εἴ τις αὐτῷ κοινώσοιτο· ἐπειδὴ δὲ πρὸς Κλέωνα διωμολογήσατο καὶ τῶν τοῦ ἀδελφοῦ

<sup>1</sup> ἐπιδημοίη Reiske: ἀπο-

<sup>2</sup> ἰέναι Reiske: εἶναι.

<sup>3</sup> ἐκείνῳ καὶ add. Dobree.

<sup>4</sup> ἀποφανοίη Scheibe: -φάνοι.

another, accompanied by Cleon rather than by anyone else, since he was of the same deme and his cousin and, moreover, intended to adopt his son. The clerk shall, therefore, read you the deposition of the demesmen to prove that on no occasion was he accompanied by him.

## DEPOSITION

Such then being the relations between Cleon and the deceased, he now demands that his son should inherit his property. Yet why should I speak of Cleon? It is rather Hierocles, the uncle of the deceased and of me, who has had the audacity to come here with a forged will and declare that Astyphilus left it in his keeping. And yet, Hierocles, though you received many kindnesses from my father Theophrastus, when you were less prosperous than you are now, and from Astyphilus, you are paying to neither of them the return which is their due; for you are robbing me, the son of Theophrastus and your own nephew, of property which the laws awarded to me, and you are slandering the memory of the dead Astyphilus and doing your best to put his bitterest enemies in possession of his property. Nay, before any formal claim was laid to the estate, Hierocles, well aware that the estate was coming by rights to me and to no one else, went round in turn to all the friends of the deceased, hawking his scheme and trying to persuade men who had no title to it to claim the estate, saying that he was Astyphilus's uncle and would show that he had left a will, if anyone would go shares with him; and now that he has made a bargain with Cleon and divided up my brother's property,

ἐμερίσατο, νυνὶ ὡς ἀληθῇ λέγων ἀξιῶσει πιστεῦεσθαι. δοκεῖ δέ μοι καὶ ὁμόσαι ἄσμενος, εἴ τις  
 25 αὐτῷ ὄρκον διδοίη. καὶ ἐμοὶ μὲν συγγενῆς ὧν οὐδὲ τὰ γενόμενα ἐθέλει μαρτυρεῖν, ᾧ δ' οὐδὲν προσήκει, τούτῳ τὰ ψευδῇ συλλαμβάνει καὶ τῶν οὐ πραχθέντων γραμματεῖον ἡκει φέρων· πολὺ γὰρ προὔργιαίτερον ἡγεῖται εἶναι τὸ χρηματίζεσθαι ἢ τὴν ἐμὴν συγγένειαν. ὡς δὲ ἐπηγγέλλετο περιῶν διαθήκας ἀποφανεῖν,<sup>1</sup> εἴ τις αὐτῷ κοινώσαιο, αὐτοὺς ὑμῖν οἷς προσήλθε μάρτυρας<sup>2</sup> παρέξομαι.<sup>3</sup>

ΜΑΡΤΥΡΕΣ<sup>4</sup>

- 26 Τί οὖν χρή, ᾧ ἄνδρες, ὄνομα θέσθαι τούτῳ τῷ ἀνδρί, ὅστις ἐθέλει οὕτω ῥαδίως διὰ τὸ ἑαυτοῦ κέρδος τῶν τεθνεώτων τινὸς καταψεύδεσθαι; ὡς δὲ οὐδὲ Κλέωνι προῖκα τὰς διαθήκας ἀποφαίνει, ἀλλὰ μισθὸν εἴληφεν, αὕτη ὑμῖν ἡ μαρτυρία οὐ μικρὸν τεκμήριον ἔσται. τοιαῦτα μέντοι κοινῇ ἐπ' ἐμοὶ τεχνάζουσιν· ἡγεῖται γὰρ αὐτῶν ἐκάτερος εὖρημα ἔχειν ὅ τι ἂν τῶν Ἀστυφίλου λάβῃ.
- 27 Ὡς μὲν οὖν οὐκ εἰσὶν ἀληθεῖς αἱ διαθήκαι, ἀλλὰ Κλέων καὶ Ἱεροκλῆς βούλονται ὑμᾶς ἐξαπατῆσαι, καθ' ὅσον ἐδυνάμην ἀπέδειξα· ὡς δ' εἰ καὶ μηδὲν προσήκων ἔτυχον Ἀστυφίλῳ, δικαιότερός εἰμι ἔχειν τὰ ἐκείνου ἢ οὗτοι, διδάξω ὑμᾶς. ὅτε γὰρ ἐλάμβανε Θεόφραστος ὁ ἐμὸς πατὴρ τὴν ἐμὴν μητέρα καὶ Ἀστυφίλου παρὰ Ἱεροκλέους, ἦλθε καὶ αὐτὸν ἐκείνον ἔχουσα μικρὸν ὄντα, καὶ διητᾶτο

<sup>1</sup> ἀποφανεῖν Dobree: -φαίνειν.

<sup>2</sup> αὐτοὺς ὑμῖν οἷς προσήλθε μάρτυρας Scheibe: αὐτοῦ ὑμῖν ὡς προσήλθε μαρτυρίας. <sup>3</sup> παρέξομαι Dobree: παρέχ-.

<sup>4</sup> μάρτυρες Scheibe: μαρτυρίαί.

he will demand to be believed on the ground that he is speaking the truth. He would, I believe, be delighted even to take an oath, if anyone were to propose it to him. For me, though he is my kinsman, he refuses to testify even to events which have actually happened, but with my opponent, who is no relative of his, he co-operates in telling lies and has brought a document in his favour to prove events which have never occurred ; for he considers that to make money is much more important than his kinship with me. To prove that he went round and promised to produce a will in favour of anyone who would share the estate with him, I will produce as witnesses the actual persons to whom he addressed himself.

## WITNESSES

What name ought to be given, gentlemen, to this man, who is willing so lightly for his own profit to slander one who is dead ? This evidence will furnish you with a strong presumption that he is not producing this will in favour of Cleon for nothing, but has received a recompense. Such, however, are the artifices which they are concerting against me ; for each regards as clear gain anything that he can filch from the property of Astyphilus.

I have proved to you to the best of my ability that the will is not genuine, and that Cleon and Hierocles are seeking to mislead you ; I will now proceed to show that, even if I had borne no relationship to Astyphilus, I have a better right to his property than my opponents. For when my father Theophrastus received my mother—who was also the mother of Astyphilus—in marriage from Hierocles, she brought with her Astyphilus, then a

## ISAEUS

παρ' ἡμῖν τὸν ἅπαντα χρόνον ὁ Ἀστύφιλος, καὶ  
 28 ἐπαιδεύθη ὑπὸ τοῦ πατρὸς τοῦ ἐμοῦ. καὶ ἐπειδὴ  
 ἐγὼ ἐγενόμην καὶ ὥραν εἶχον παιδεύεσθαι, μετ'  
 ἐκείνου συνεπαιδευόμην. λαβὲ δέ μοι ταύτην τὴν  
 μαρτυρίαν, εἴτα τῶν διδασκάλων ὅποι ἐφοιτῶμεν.

### MARTTPIAI<sup>1</sup>

Τὸ τοίνυν χωρίον τὸ ἐκείνου πατρῶον, ὦ ἄνδρες,  
 ὁ πατὴρ ὁ ἐμὸς ἐφύτευσε καὶ ἐγεώργει καὶ ἐποίει  
 διπλασίου ἄξιον. ἀνάβητέ μοι καὶ τούτων μάρ-  
 τυρες.

### MARTTPΕΣ

29 Ἐπεὶ τοίνυν ἐδοκιμάσθη ὁ ἀδελφός, ἀπέλαβε  
 πάντα ὀρθῶς καὶ δικαίως, ὥστε ἐκείνον μηδὲ  
 πώποτε μηδὲν ἐγκαλέσαι τῷ ἐμῷ πατρί. μετὰ δέ  
 ταῦτα τὴν ἀδελφὴν τὴν ἐκείνου ὁμοπατρίαν ἡγ-  
 γύησεν ὁ ἐμὸς πατὴρ ὅτῳ ἐδόκει αὐτῷ, καὶ τᾶλλα  
 διώκει, καὶ ταῦτα τῷ Ἀστυφίλῳ ἐξήρκει· ἱκανὴν  
 γὰρ ἡγήσατο βάσανον εἰληφέναι ἀπὸ τοῦ πατρὸς  
 τοῦ ἐμοῦ τῆς εἰς αὐτὸν εὐνοίας, ἐκ μικροῦ παιδίου  
 τεθραμμένος παρ' αὐτῷ. μαρτυροῦσι δὲ ὑμῖν<sup>2</sup> καὶ  
 περὶ τῆς ἐγγύης οἱ εἰδότες.

### MARTTPΕΣ

30 Εἰς τοίνυν τὰ ἱερὰ ὁ πατὴρ ὁ ἐμὸς τὸν Ἀστύ-  
 φιλον <όντα><sup>3</sup> παῖδα ἦγε μεθ' ἑαυτοῦ ὥσπερ καὶ ἐμὲ  
 πανταχῇ καὶ εἰς τοὺς θιάσους τοὺς Ἡρακλέους

<sup>1</sup> μαρτυρῖαι Reiske: -ia.

<sup>2</sup> ὑμῖν Sauppe: ἡμῖν.

<sup>3</sup> ὄντα add. Dobree.



## ON THE ESTATE OF ASTYPHILUS, 27-30

young child, and he lived continuously in our house, and was brought up by my father. When I was born and was of an age to be instructed, I was educated with him. Please take this deposition, and after it that of the masters whose classes we attended.

### DEPOSITIONS

My father, gentlemen, planted the paternal estate of Astyphilus and continued to cultivate it and doubled its value. Let the witnesses of this also, please, come up.

### WITNESSES

When my brother came of age, he received all his possessions in so correct and regular a manner that he never had any complaint to make against my father. After this my father gave Astyphilus's sister in marriage<sup>a</sup> to a man of his choice and managed everything else to Astyphilus's complete satisfaction; for the latter thought that he had received an ample proof from my father of his goodwill towards him, in the fact that he had been brought up by him from early childhood. Those who know the facts are my witnesses before you about his sister's betrothal.

### WITNESSES

My father took Astyphilus with him when he was a child, as also he took me, to the religious ceremonies on every occasion; he also introduced him to the

<sup>a</sup> This duty would naturally fall to the brother when he came of age; but Astyphilus preferred that his stepfather should act for him.

## ISAEUS

ἐκείνον [αὐτὸν] εἰσήγαγεν, ἵνα μετέχοι τῆς κοινωνίας. αὐτοὶ ὑμῖν οἱ θιασῶται μαρτυρήσουσιν.

ΜΑΡΤΥΡΕΣ<sup>1</sup>

[78] Ἐγὼ δέ, ὦ ἄνδρες, ὡς διεκείμην πρὸς τὸν ἀδελφόν, σκέψασθε. πρῶτον μὲν γὰρ συνετράφην ἐκείνῳ ἐκ παιδίου, ἔπειτα οὐδέποτε διάφορος ἐγενόμην, ἀλλ' ἡσπάζετό με, ὡς ἴσασιν οἱ οἰκεῖοι πάντες οἱ ἡμέτεροι καὶ οἱ φίλοι· οὓς βούλομαι ὑμῖν μάρτυρας ἀναβιβάσαι.

ΜΑΡΤΥΡΕΣ

31 Δοκεῖ ἂν οὖν ὑμῖν Ἀστυφίλος, ὦ ἄνδρες, οὕτω μὲν μισῶν Κλέωνα, τοσαῦτα δ' ἀγαθὰ ὑπὸ τοῦ πατρὸς τοῦ ἐμοῦ πεπονθώς, αὐτὸς τῶν ἐχθρῶν ἄντινος ὑὸν ποιήσασθαι ἢ τὰ ἑαυτοῦ δοῦναι, τοὺς εὐεργέτας καὶ τοὺς συγγενεῖς ἀποστερήσας; ἐγὼ μὲν οὐκ ἂν οἶομαι, εἰ καὶ δεκάκις ὁ Ἱεροκλῆς διαθήκας ψευδεῖς ἀποδεικνύει, ἀλλὰ καὶ διὰ τὸ ἀδελφὸν εἶναι καὶ διὰ τὴν ἄλλην οἰκειότητα πολὺ  
32 μᾶλλον προσήκειν ἐμοὶ ἢ τῷ Κλέωνος υἱεῖ, ἐπεὶ<sup>2</sup> τούτοις γε οὐδὲ προσποιήσασθαι καλὸν ἦν τῶν Ἀστυφίλου, οἵτινες οὕτω διέκειντο πρὸς αὐτόν, τὰ δὲ ὅσῃ οὐκ ἔθαψαν, ἀλλὰ πρότερον ἐπὶ τὴν οὐσίαν ἦλθον πρὶν ἐκείνῳ τὰ νομιζόμενα ποιῆσαι. ἔπειτα νῦν ἀξιώσουσι κληρονομεῖν τῶν Ἀστυφίλου οὐ μόνον τὰς διαθήκας λέγοντες, ἀλλὰ καὶ τὸ γένος παρατιθέντες, ὅτι ἀνεψιὸς ἦν Κλέων πρὸς πατρός.

<sup>1</sup> μάρτυρες Aldus: μαρτυρία.

<sup>2</sup> ἐπεὶ sched. Eton., Reiske: ἐπὶ.

## ON THE ESTATE OF ASTYPHILUS, 30-32

confraternity of Heracles in order that he might become a member of this association. The other members will themselves bear witness to this.

### WITNESSES

Next consider, gentlemen, my own relations with my brother. In the first place, I was brought up with him from infancy ; secondly, I never had a quarrel with him, but he had a great affection for me, as all the members of our family and our friends know. I should like them to come forward and testify to you.

### WITNESSES

Can you imagine, gentlemen, that Astyphilus, detesting Cleon so heartily and having experienced so many kindnesses at the hands of my father, would himself have adopted a son of one of his enemies or bequeathed his property to him, to the detriment of his benefactors and relatives ? Personally, I regard it as impossible, even though Hierocles produces forged wills ten times over : no, I am convinced that, because I am his brother and we were bound together by every other tie, I have a much stronger claim than the son of Cleon ; for it was positively indecent in them to put forward pretensions to the estate of Astyphilus, when they were on the terms with him that I have described and never buried his remains, but entered into possession before performing the customary rites over him. Further, they intend now to demand the succession to Astyphilus's property not only because of the will which they allege to exist, but also by a comparison of their relationship and mine, on the ground that Cleon was a first cousin of the deceased on his father's

33 ὑμᾶς δέ, ὦ ἄνδρες, οὐκ εἰκός ἐστι τῷ τούτου  
γένει προσέχειν τὸν νοῦν· οὐδεὶς γὰρ πώποτε  
ἐκποίητος γενόμενος ἐκληρονόμησε τοῦ οἴκου ὅθεν  
ἐξεποιήθη, ἐὰν μὴ ἐπανέλθῃ κατὰ τὸν νόμον. . . .  
οὗτοι μέντοι ἀκριβῶς εἰδότες ὅτι οὐκ ἐποίησατο  
Ἀστυφίλος τὸν Κλέωνος υἱόν, πολλάκις ἐληλυθότι  
αὐτῷ οὐδεπώποτε κεκρεανομήκασι. λαβέ μοι καὶ  
ταύτην τὴν μαρτυρίαν.

ΜΑΡΤΥΡΙΑ

34 Ἐκατέρῳ οὖν ἡμῶν, ἐξ ὧν ἀντωμόσαμεν σκε-  
ψάμενοι, ψηφίσασθε. Κλέων μὲν γάρ φησι τὸν  
υἱὸν τὸν ἑαυτοῦ Ἀστυφίλῳ εἰσποιηθῆναι, καὶ ταῦτ'  
ἐκείνον διαθέσθαι· ἐγὼ δ' οὐ φημι, ἀλλ' ἐμὰ εἶναι  
πάντα τὰ Ἀστυφίλου, ἀδελφὸς ὢν ἐκείνου, ὥς καὶ  
αὐτοὶ οὗτοι<sup>1</sup> ἴσασι. μὴ τοίνυν, ὦ ἄνδρες, εἰσποιή-  
σητε<sup>2</sup> υἱὸν Ἀστυφίλῳ ὃν οὐδ' αὐτὸς ζῶν ἐκείνος  
ἐποίησατο, ἀλλὰ τοὺς νόμους οὓς ὑμεῖς ἔθεσθε βε-  
βαιώσατέ μοι· κατὰ τούτους γὰρ ἀμφισβητῶ, ὅσιω-  
τάτην δέησιν δεόμενος, ὦ ἄνδρες, τῆς τοῦ ἀδελφοῦ  
35 οὐσίας κληρονόμον με καταστήσαι. ἀπέδειξα δ'  
ὑμῖν ὥς οὐδενὶ ἐκείνος δέδωκε τὰ ἑαυτοῦ, καὶ μάρ-  
τυρας ἀπάντων ὧν εἶπον παρεσχόμην. βοηθήσατε  
οὖν μοι, καὶ εἰ λέγειν ἐμοῦ δύναται Κλέων μᾶλλον,  
τοῦτο αὐτῷ ἄνευ τοῦ νόμου καὶ τοῦ δικαίου μηδὲν  
ἰσχυσάτω, ἀλλ' ὑμᾶς αὐτοὺς βραβευντὰς ἀπάντων  
καταστήσατε. διὰ τοῦτο γὰρ συλλέγεσθε, ἵνα τοῖς

<sup>1</sup> οὗτοι Dobree: τοῦτο.

<sup>2</sup> εἰσποίησητε Sauppe: -σησθε.

<sup>a</sup> There is obviously a lacuna in the text at this point, which must have contained a reference to the devices whereby Cleon attempted to obtain the recognition of his son by the members of Astyphilus's ward.

side. There is little likelihood, however, gentlemen, of your paying any attention to his claim of kinship ; for no one, after passing by adoption into another family, has ever inherited from the family out of which he was adopted, unless he re-entered it in the proper legal manner.<sup>a</sup> . . . These men,<sup>b</sup> however, well knowing that Astyphilus never adopted Cleon's son, though he has often presented himself, have never given him any share in the victims. Please take this deposition also.

## DEPOSITION

I call upon you, therefore, to decide between us after considering our declarations under oath. Cleon declares that his son was adopted by Astyphilus and that the latter made dispositions to this effect ; this I deny and declare that all Astyphilus's possessions belong to me, because I am his brother, as my opponents are themselves well aware. Do not, therefore, gentlemen, give Astyphilus an adopted son whom he himself never in his life adopted, but confirm in my favour the laws which you yourselves enacted ; for it is in conformity with them that I make my claim, addressing to you a most pious prayer, that you should establish me as heir of my brother's property. I have shown that he never devised his estate to anyone, and I have produced witnesses in support of all my statements. Assist me, therefore, and, if Cleon is a more clever speaker than I am, let not his talent avail him unsupported by law and justice, but constitute yourselves arbitrators on the whole case. You are gathered here that the impudent may gain no

<sup>b</sup> *i.e.*, the fellow-wardsmen of Astyphilus.

μὲν ἀναισχυντοῦσι μηδὲν πλέον ἤ, οἱ δὲ ἀδυνατώ-  
 τεροι τολμῶσι περὶ τῶν δικαίων ἀμφισβητεῖν, εὖ  
 εἰδότες ὅτι ὑμεῖς οὐδενὶ ἄλλῳ τὸν νοῦν προσέχετε.  
 36 ἅπαντες οὖν, ὦ ἄνδρες, μετ' ἐμοῦ γένεσθε· ὥς  
 εἴαν τι ἄλλο ψηφίσησθε Κλέωνι πειθόμενοι, σκέ-  
 ψασθε ὁπόσων αἵτιοι γενήσεσθε. πρῶτον μὲν τοὺς  
 ἐχθίστους Ἀστυφίλου ἐπὶ τε τὰ μνήματα ἰέναι καὶ  
 ἐπὶ τὰ ἱερὰ <τὰ><sup>1</sup> ἐκείνου ποιήσετε· ἔπειτα τὰς  
 Εὐθυκράτους ἐπισκήψεις, τοῦ πατρὸς τοῦ Ἀστυ-  
 φίλου, ἀκύρους ποιήσετε, ἃς αὐτὸς πρότερον  
 ἀπέθανεν ἢ<sup>2</sup> παραβῆναι· ἔπειτα τετελευτηκότα  
 37 Ἀστυφίλον παρανοίας αἰρήσετε· εἰ γὰρ τοῦτον  
 ἐποιήσατο ὕδν οὗ<sup>3</sup> τῷ πατρὶ πολεμιώτατος ἦν,  
 πῶς οὐ δόξει τοῖς ἀκούσασι παρανοεῖν ἢ ὑπὸ  
 φαρμάκων διεφθάρθαι; ἔτι δ' ἐμέ, ὦ ἄνδρες δι-  
 κασταί, ἐκτραφέντα ἐν τῷ αὐτῷ καὶ συμπαι-  
 δευθέντα Ἀστυφίλῳ καὶ ἀδελφὸν ὄντα, περιόψεσθε  
 ὑπὸ Κλέωνος ἀποστερηθέντα τῶν ἐκείνου. ἀντι-  
 βολῶ ὑμᾶς καὶ ἱκετεύω ἐκ παντὸς τρόπου ψηφί-  
 σασθαί μοι· οὕτω γὰρ ἂν μάλιστα Ἀστυφίλῳ τε  
 χαρίσαισθε καὶ ἐμὲ οὐκ ἂν ἀδικήσαιτε.<sup>4</sup>

<sup>1</sup> τὰ add. Sauppe.

<sup>3</sup> οὗ Sauppe: δς.

<sup>2</sup> ἀπέθανεν ἢ Bekker: ἢ ἀπέθανεν.

<sup>4</sup> ἀδικήσαιτε Bekker: -σητε.

advantage and the weaker may venture to assert their righteous claims, knowing full well that you are intent upon justice and upon nothing else. Take, therefore, my part, all of you, gentlemen; for if you allow yourselves, under the persuasion of Cleon, to give any other verdict, consider the responsibility which you will assume. First, you will send the bitterest enemies of Astyphilus to his tomb to celebrate the rites over him; secondly, you will make of none effect the injunctions of Euthykrates, the father of Astyphilus, which he himself never transgressed up to the end of his life; lastly, you will convict Astyphilus after his death of consummate folly. For if he adopted this man as his son with whose father he was on terms of the bitterest enmity, will not those who hear of it imagine that he was mad or that his senses had been impaired by drugs? Further, judges, you will be allowing me, after having been brought up under the same roof and educated with Astyphilus, to be deprived of his estate by Cleon. I beg and beseech you by every means in my power to give your verdict in my favour; for then you would best gratify the wishes of Astyphilus and save me from injustice.





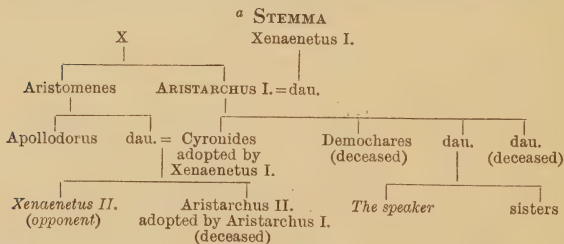
X. AGAINST XENAENETUS  
ON THE ESTATE OF ARISTARCHUS

## X. AGAINST XENAENETUS ON THE ESTATE OF ARISTARCHUS

### INTRODUCTION

ARISTARCHUS I.<sup>a</sup> had two sons, Cyronides and Demochares, and two daughters. Cyronides, having been adopted by his maternal grandfather Xenaenetus I., passed out of the family, and Demochares became heir to his father's estate.

On the death of Aristarchus I., his brother Aristomenes became guardian of his children. When Demochares died as a minor and one of the sisters also predeceased her father, the succession became vested in the surviving daughter and would pass by law to her son when he came of age. According to Attic law, since the surviving daughter was still unmarried, her hand together with the estate might



## ON THE ESTATE OF ARISTARCHUS

have been claimed by Aristomenes as next-of-kin or his son Apollodorus. Neither of them claimed her, and she married a husband who had no connexion with the family. Aristomenes, however, gave his own daughter in marriage to Cyronides, to whom he handed over the estate of Aristarchus I. in spite of the fact that he had forfeited his position as his father's heir on his adoption by his grandfather. Cyronides had two sons, Xenaenetus II. and Aristarchus II., of whom the latter was (according to the speaker of the present speech, illegally) introduced by posthumous adoption as son of Aristarchus I. and enjoyed the estate for his lifetime. He fell in battle, leaving no issue, and bequeathed the property to his brother Xenaenetus II.

Such is the case presented in the present speech. At first sight it appears simple and the claim a reasonable one; but a closer examination reveals considerable complications. In the first place, the fact is revealed that the archon had obliged the speaker to declare in his claim to the estate that his mother was the sister of Aristarchus II., that is to say, to recognize the posthumous adoption of Aristarchus II. as the son of Aristarchus I.—the very point which the speaker is seeking to disprove. This ruling of the archon seems to show that the speaker had no standing as grandson of Aristarchus I. and was only allowed to claim at all as nephew of Aristarchus II. Secondly, if his claim was good, why had it not been made earlier? According to the speaker, his mother had been shamelessly defrauded by her guardian and her brother, who are now dead and cannot defend themselves; but why had her husband and her son taken no steps

before to recover the estate? The speaker anticipates this objection by stating that his father after his marriage had, at the suggestion of his wife, put in such a claim but had been silenced by the threat that, if he persisted in it, the next-of-kin would claim his wife and the estate with her, and he preferred to keep silence rather than lose his wife. Later, the speaker alleges, both he and his father had been absent on military service, and on his return he had been detained from pleading because he was a state-debtor. These excuses do not appear to possess much force.

That Cyronides had, by his adoption out of the family, forfeited his right to the estate seems incontestible; and the posthumous adoption of Aristarchus II. as son of Aristarchus I. would have been an audacious proceeding if its object had been to deprive the rightful heir of a large fortune. But the adoption had been officially recognized by the archon, and for a reason which the speaker incidentally divulges in an attempted anticipation of an argument which his opponents are likely to use (§ 15). He says that Xenaenetus II. will allege that his father Cyronides had paid a debt on behalf of the estate and will use this as an argument in support of his claim. The speaker makes no attempt to disprove the statement that the property was encumbered, but contents himself with saying that no one is such a fool as to discharge debts on someone else's insolvent estate. It may well be, however, that Cyronides, whose strong family feeling is indicated by his bestowal of family names on both his sons, was inspired by a desire to clear the memory of his father by paying the debts which he left

## ON THE ESTATE OF ARISTARCHUS

behind him and to give him, by posthumous adoption, a son who would carry on his family and perform those rites at his tomb on which every Athenian set so much store. If this is so, his act was one of piety and generosity, not of fraud and rapacity.

The speech, which does not rank high among the orations of Isaeus from the point of view either of style or argument, can be dated within a few years. The speaker had fought in the Corinthian war of 394-386 B.C. (§ 20); Aristarchus II. fell in a war which was still in progress (§ 22) and can only have been the Theban war of 378-371 B.C. The speech must, therefore, fall within the latter period.

## Χ. ΠΡΟΣ ΞΕΝΑΙΝΕΤΟΝ ΠΕΡΙ ΤΟΥ ΑΡΙΣΤΑΡΧΟΥ ΚΛΗΡΟΥ

### ΥΠΟΘΕΣΙΣ

Ἄρισταρχός τις τεσσάρων πατὴρ γενόμενος παίδων, Κυρωνίδου καὶ Δημοχάρους καὶ τῆς μητρὸς τοῦ λέγοντος τὸν λόγον καὶ ἄλλης κόρης, τούτων<sup>1</sup> μὲν τὸν Κυρωνίδην ἔτι περιῶν εἰσεποίησεν εἰς τὸν Ξεναινέτου τοῦ κατὰ μητέρα πάππου κλῆρον, αὐτὸς δὲ κληρονόμους τοὺς λοιποὺς ἑαυτῷ κατέλειψε παῖδας. μετὰ ταῦτα τελευτᾷ μὲν Δημοχάρης ἄπαις, καὶ ἡ μία θυγάτηρ [αὐτοῦ] καὶ αὐτὴ ἄπαις, ὁ δὲ κλῆρος ὅλος ἔρχεται δικαίως εἰς τὴν μητέρα τοῦ λέγοντος τὸν λόγον. καὶ ταῦτα μὲν οὕτω· μετὰ δὲ τὴν τελευτὴν Ἀριστάρχου Ἀριστομένης ἀδελφὸς ὢν αὐτοῦ καὶ κατὰ νόμον ἐπίτροπος τῶν τοῦ ἀδελφοῦ γινόμενος παίδων, ἐκδέδωκε Κυρωνίδῃ τῷ ἐκποιήτῃ υἱῷ Ἀριστάρχου τὴν θυγατέρα ἑαυτοῦ, ἐπαγγειλάμενος περιποιῆσαι αὐτῷ τὸν Ἀριστάρχου κλῆρον. ὁ δὲ καὶ πεποίηκε· γενομένου γὰρ υἱοῦ τῷ Κυρωνίδῃ πρῶτον μὲν ὄνομα τῷ παιδί τὸ τοῦ πάππου δεδώκασιν, Ἀρίσταρχον ὀνομάσαντες, εἶτα εἰσεποίησαν αὐτὸν εἰς τὸν <τοῦ><sup>2</sup> πάππου οἶκον ὥς δὴ τοῦτο ἐκείνου προστάξαντος, καὶ παραδέδωκεν Ἀριστομένης αὐτῷ τὸν ὅλον τοῦ πάππου κλῆρον. ἔτι δὲ ἄπαις<sup>3</sup> ὢν ἐκείνος [καὶ] τελευτῶν κληρονόμον κατὰ διαθήκας ἐνεστήσατο τὸν ἴδιον ἀδελφὸν Ξεναινέτον. τούτων οὕτω γενομένων, καὶ κρατοῦντος Ξεναινέτου τὴν Ἀριστάρχου τοῦ παλαιοῦ οὐσίαν, ἀμφι-

358

## X. AGAINST XENAENETUS ON THE ESTATE OF ARISTARCHUS<sup>1</sup>

### ARGUMENT

A certain Aristarchus was the father of four children, Cyronides, Demochares, the mother of the speaker of this oration, and another daughter. During his lifetime he gave Cyronides in adoption to be heir of the estate of his maternal grandfather Xenaenetus, and left his other children as his own heirs. Subsequently Demochares died without issue, as also did one of the daughters, and the whole estate passed by law to the mother of the speaker. Such was the position of affairs; but, after the death of Aristarchus, Aristomenes, his brother and now the legal representative of his brother's children, gave his own daughter in marriage to Cyronides, the son of Aristarchus, who had been adopted out of the family, having promised to obtain for him the estate of Aristarchus. This he succeeded in doing; for, when a son was born to Cyronides, they first gave him his grandfather's name, calling him Aristarchus (II.), and then had him adopted into his grandfather's family, on the ground that the latter had given instructions to this effect, and Aristomenes handed over to him all his grandfather's estate. Aristarchus (II.), dying without issue, constituted his own brother Xenaenetus (II.) by will as his heir. This being so and Xenaenetus being in possession of the property of Aristarchus the elder, the son of the latter's daughter

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<sup>1</sup> τοῦτων Bekker: τοῦτον.

<sup>2</sup> τοῦ add. Bekker.

<sup>3</sup> ἀπαῖς Graux: παῖς.

σβητεῖ πρὸς αὐτὸν ὁ υἱὸς τῆς θυγατρὸς Ἀριστάρχου τοῦ παλαιοῦ, λέγων ἑαυτὸν μόνον εἶναι κληρονόμον δικαίως τῶν Ἀριστάρχου τοῦ παλαιοῦ χρημάτων. ὁ μὲν γὰρ Κυρωνίδης (φησὶν) ἐκποίητος ἐγένετο· ὁ δὲ πατὴρ υἱὸν ἔχων γνήσιον τὸν Δημοχάρην, οὐκ ἐδύνατο θετὸν ἑαυτῷ ποιῆσαι παῖδα· ὁ δὲ Δημοχάρης ἀτελὴς ὢν οὐδὲ αὐτὸς ἐδύνατο εἰσποιῆσαι τῷ πατρὶ θετὸν υἱόν· ἀλλ' οὐδ' ἡ ἄλλῃ θυγάτηρ αὐτοῦ ἢ προτελευτήσασα. ὥστε οὐ κατὰ τὸν νόμον (φησί) τῆς εἰσποιήσεως γενομένης τοῦ μικροῦ Ἀριστάρχου, οὐκέτι συνίστατο ἡ διαθήκη αὐτοῦ, τοῦ νέου Ἀριστάρχου· ἃ γὰρ μὴ δικαίως ἐκτήσατο, πῶς ἄλλω παραπέμπειν ἐδύνατο; ἀναιρουμένης δὲ τῆς διαθήκης εἰκότως ὁ κλῆρος εἰς τὸν λέγοντα τὸν λόγον ἐφέρετο, υἱὸν ὄντα τῆς γνησίας θυγατρὸς Ἀριστάρχου τοῦ παλαιοῦ. καὶ ἡ μὲν ὑπόθεσις αὕτη, ἡ στάσις δὲ πραγματικὴ ἔγγραφος· ζητεῖται<sup>1</sup> γὰρ εἰ δεῖ τὰς τοιαύτας συνεστάναι διαθήκας, καὶ τίς δικαιοτέρα λέγει.

- 1 Ἐβουλόμην <μέν>,<sup>2</sup> ὦ ἄνδρες, ὥσπερ Ξεναίνετος οὕτοσὶ δύναται ψευδῇ λέγειν θαρραλέως, οὕτω καὶ γὰρ τάληθῇ πρὸς ὑμᾶς περὶ ὧν ἀμφισβητοῦμεν εἰπεῖν δυνηθῆναι· οἶμαι γὰρ ἂν ὑμῖν εὐθέως δῆλον γενέσθαι εἴθ' ἡμεῖς ἀδίκως ἐπὶ τὸν κλῆρον ἤκομεν, εἴθ' οὗτοι μὴ προσηκόντως πάλαι τὰ χρήματα ταῦτα εἰλήφασιν. νῦν δὲ οὐκ ἐξ ἴσου διακείμεθα, ὦ ἄνδρες. οἱ μὲν γὰρ καὶ λέγειν δεινοὶ καὶ παρασκευάσασθαι ἱκανοί, ὥστε καὶ ὑπὲρ ἐτέρων πολλάκις ἐν ὑμῖν ἡγωνίσθαι· ἐγὼ δὲ μὴ ὅτι ὑπὲρ ἄλλου ἀλλ' οὐδὲ ὑπὲρ ἑμαυτοῦ πώποτε δίκην ἰδίαν εἴρηκα, ὥστε πολλῆς δεῖ με συγγνώμης τυχεῖν παρ' ὑμῶν.
- 2 Ἠνάγκασμαι μὲν οὖν, ὦ ἄνδρες, διὰ τὸ μὴ δύνασθαι δίκην παρ' αὐτῶν λαβεῖν, τὴν μητέρα τὴν

<sup>1</sup> ζητεῖται> Wyse.

<sup>2</sup> μέν add. Bekker.



## ON THE ESTATE OF ARISTARCHUS, 1-2

claims the estate from him, asserting that he is himself by law the sole heir to the fortune of Aristarchus the elder. For, he declares, Cyronides passed out of the family by adoption, and his father, having a legitimate son, namely, Demochares, could not adopt a child; nor were Demochares, being under age, and the other sister who predeceased him in a position to adopt a son into their father's family. Therefore, he argues, since the adoption of Aristarchus the younger was not good in law, his will could not stand either; for how could he pass on to another property which he acquired without right? The will being thus annulled, the estate ought naturally to pass to the speaker as son of the legitimate daughter of Aristarchus the elder. Such is the subject; the discussion is concerned with validity, namely, that of a written document; for the questions are whether such a will ought to stand and which party has the better claim.

I could wish, gentlemen, that, as Xenaenetus here finds it easy to lie with boldness, so I with like confidence could speak the truth to you in presenting my claim; for then, I think, it would immediately become clear to you whether we have unjustly come forward to claim the inheritance and whether our opponents have been for a long time in wrongful possession of this fortune. But, as it is, we are not on equal terms; for they are both able speakers and clever plotters, so that they have often pleaded before you on behalf of others, whereas I, so far from speaking on behalf of another, have never before pleaded on my own behalf in a private suit, and therefore deserve great indulgence at your hands.

I was obliged, it is true, owing to the impossibility of obtaining justice against my opponents, to add

ἐμὴν ἐν<sup>1</sup> τῇ ἀνακρίσει Ἀριστάρχου εἶναι ἀδελφὴν προσγράψασθαι· οὐ μὲν διὰ τοῦτο ὑμῖν ἡ διάγνωσις<sup>2</sup> ἦττον περὶ αὐτῶν εὐκρινῆς γενήσεται, [ἀλλ'] ἐκ τῶν νόμων σκοποῦσιν εἰ τὰ ἑαυτοῦ δέδωκε τούτῳ Ἀρίσταρχος ἢ τὰ μηδὲν προσήκοντα. ἔστι δὲ δίκαιον τοῦτο, ὦ ἄνδρες· ὁ γὰρ νόμος κελεύει τὰ μὲν ἑαυτοῦ διαθέσθαι ὅτῳ ἂν ἐθέλῃ, τῶν

3 δὲ ἄλλοτρίων οὐδένα κύριον πεποιήκε. τοῦτο οὖν ὑμᾶς πειράσομαι πρῶτον διδάσκειν, εἴαν μου μετ' εὐνοίας ἀκοῦσαι ἐθέλητε. εἴσεσθε γὰρ ὡς ὁ κλῆρος οὗτος οὐ τούτων ἦν ἐξ ἀρχῆς, ἀλλὰ τῆς ἐμῆς μητρὸς πατρῶς, ἔπειτα καὶ ὡς Ἀρίσταρχος οὐδὲ καθ' ἓνα νόμον αὐτὸν εἴληφεν, ἀλλὰ παρὰ πάντας τοὺς νόμους ἀδικεῖ μετὰ τῶν οἰκείων τὴν ἐμὴν μητέρα. ὅθεν οὖν σαφέστατα μαθήσεσθε ὡς ἔχει ταῦτα, ἐντεῦθεν ὑμᾶς πρῶτον πειράσομαι διδάσκειν.

4 Ἀρίσταρχος γὰρ ἦν, ὦ ἄνδρες, Συπαλήττιος.<sup>3</sup> οὗτος ἔλαβε Ξεναινέτου Ἀχαρνέως θυγατέρα, ἐξ ἧς γίνεταί Κυρωνίδης καὶ Δημοχάρης καὶ ἡ μήτηρ ἡ ἐμὴ καὶ ἄλλη τούτων ἀδελφή. Κυρωνίδης μὲν οὖν ὁ τοῦδε πατὴρ καὶ θατέρου τοῦ τόνδε τὸν κλῆρον ἀδίκως ἔχοντος ἐξεποιήθη εἰς ἕτερον οἶκον, ὥστε αὐτῷ τῶν χρημάτων οὐδὲν ἔτι προσῆκεν· Ἀριστάρχου δὲ τοῦ πατρὸς <τοῦ><sup>4</sup>

[80] τούτων | τελευτήσαντος Δημοχάρης <ὁ><sup>5</sup> ὑὸς κληρονόμος τῶν ἐκείνου κατέστη. τούτου δὲ παιδὸς ἀποθανόντος καὶ τῆς ἐτέρας ἀδελφῆς, ἡ μήτηρ ἡ

<sup>1</sup> ἐν Dobree: πρὸς.

<sup>2</sup> ἡ διάγνωσις Scheibe: ἥδε ἡ γνώσις.

<sup>3</sup> Συπαλήττιος Baiter-Sauppe: συπαλλήττιος.

<sup>4</sup> τοῦ add. Dobree.

<sup>5</sup> ὁ add. Sauppe.

<sup>a</sup> See Introduction, p. 355.

<sup>b</sup> i.e., Aristarchus II.

## ON THE ESTATE OF ARISTARCHUS, 2-4

to my petition at the preliminary inquiry that my mother was sister of Aristarchus (II.).<sup>a</sup> This will not, however, make your decision any the less easy, if you ask yourselves the question in the light of the laws whether the estate which Aristarchus (II.) has bequeathed to my opponent was his own or whether it was property to which he had no right. This question is a perfectly legal one ; for the law ordains that a man can dispose of what is his own to anyone he likes, but it has never given anyone power over the possessions of another. This, then, is the first point which I shall try to make clear to you, if you will give me your kind attention ; for you will recognize that this estate belonged from the first, not to my opponents but to my mother, who inherited it from her father, and, secondly, that Aristarchus (II.) seized it without the sanction of any law, and that he and the members of his family are wronging my mother in violation of every law. I will try to put the matter before you, going back to a point which will enable you to form the clearest conception of the facts.

Aristarchus (I.), gentlemen, belonged to the deme of Sypalettus. He married the daughter of Xenaenetus (I.) of Acharnae, by whom he had two sons, Cyronides and Demochares, and two daughters, one of whom was my mother. Cyronides, the father of my opponent and of the other party <sup>b</sup> who illegally kept possession of this estate, was adopted into another family, so that he had no further claim to the property. On the death of Aristarchus (I.), the father of these two sons, Demochares his son became his heir ; but, when he died in his minority and the other sister also died, my mother became

- 5 ἐμὴ ἐπὶ<sup>1</sup> παντὶ τῷ οἴκῳ ἐπὶ κληρὸς ἐγένετο. καὶ οὕτω μὲν ἐξ ἀρχῆς ἅπαντα ταυτὶ τῆς ἐμῆς μητρὸς ἐγένετο· προσῆκον δ' αὐτῇ μετὰ τῶν χρημάτων τῷ ἐγγύτατα γένους συνοικεῖν, πάσχει δεινότατα, ὧ ἄνδρες. Ἀριστομένης γὰρ ἀδελφὸς ὢν ἐκείνου τοῦ Ἀριστάρχου, ὄντος αὐτῷ υἱὸς καὶ θυγατρὸς, ἀμελήσας ἢ αὐτὸς αὐτὴν ἔχειν ἢ τῷ υἱῷ μετὰ τοῦ κλήρου ἐπιδικάσασθαι, τούτων μὲν οὐδὲν ἐποίησε, τὴν δὲ ἑαυτοῦ θυγατέρα ἐπὶ τοῖς τῆς ἐμῆς μητρὸς χρήμασι Κυρωνίδῃ ἐξέδωκεν, ἐξ ἧς ὁ Ξεναινέτος
- 6 οὗτος καὶ Ἀρίσταρχος ὁ τελευτήσας ἐγένετο. τὸ μὲν οὖν ἀδίκημα, καὶ ὃν τρόπον τῶν χρημάτων ἀπεστερήθη,<sup>2</sup> τοῦτ' ἐστίν, ὧ ἄνδρες· μετὰ δὲ ταῦτα τὴν ἐμὴν μητέρα ἐκδίδωσι τῷ ἐμῷ πατρί. Κυρωνίδου δὲ τελευτήσαντος τὸν τοῦ Ξεναινέτου ἀδελφὸν εἰσάγουσιν Ἀριστάρχῳ υἱόν, οὐδὲ καθ' ἓνα νόμον, ὧ ἄνδρες, ὥς ἐγὼ ἐκ πολλῶν τεκμηρίων ὑμῖν ἐπιδείξω.
- 7 Πρῶτον μὲν οὖν μάρτυρας ὑμῖν παρέξομαι ὥς Κυρωνίδης ἐκποίητος εἰς τὸν Ξεναινέτου οἶκον ἐγένετο καὶ ἐν ἐκείνῳ ἐτελεύτησεν, ἔπειθ' ὥς Ἀρίσταρχος, οὗ ἦν οὗτος ὁ κληρὸς, πρότερος τοῦ υἱὸς Δημοχάρους ἐτελεύτησε, Δημοχάρης δὲ παῖς ὢν ἀπέθανε καὶ ἡ ἑτέρα ἀδελφή, ὥστε τὸν κληρὸν ἐπὶ τῇ ἐμῇ μητρὶ γενέσθαι. καὶ μοι κάλει τούτων τοὺς μάρτυρας.

<ΜΑΡΤΥΡΕΣ>

- 8 Οὕτω μὲν ἐξ ἀρχῆς <τῆς μητρὸς τῆς ἐμῆς><sup>3</sup> ἦν,

<sup>1</sup> ἐπὶ Valckenaer: ἐν.

<sup>2</sup> ἀπεστερήθη Schoemann: -θην.

<sup>3</sup> τῆς μητρὸς τῆς ἐμῆς add. Buermann.

<sup>a</sup> i.e., Aristarchus II.

heiress to the whole of the family estate. Thus from the beginning all this fortune really belonged to my mother ; but, although she ought to have passed by marriage, together with her fortune, into the hands of her nearest relative, she is being abominably treated. For Aristomenes, the brother of Aristarchus the elder, having a son and a daughter of his own, neglected to make her his own wife or to have her married to his own son by an adjudication of the court ; refusing both these alternatives, he gave his own daughter in marriage to Cyronides, endowing her with the fortune which belonged to my mother. Xenaenetus here and Aristarchus (II.), now deceased, were the issue of this marriage. This is the injury, this the manner, gentlemen, in which my mother was deprived of her fortune. Subsequently Aristomenes gave my mother in marriage to my father. On the death of Cyronides, they introduced Xenaenetus's brother<sup>a</sup> as the adopted son of Aristarchus (I.), a proceeding which cannot be justified by any law, as I will demonstrate to you by many proofs.

I will produce witnesses to testify, in the first place, that Cyronides entered by adoption into the family of Xenaenetus (I.) and belonged to that family at the time of his death ; secondly, that Aristarchus (I.), to whom this estate belonged, predeceased his son Demochares, and that Demochares died while yet a minor, as did also the other sister, with the result that the estate devolved on to my mother. Please summon the witnesses to these facts.

#### WITNESSES

Thus, gentlemen, the estate now in question

ὦ ἄνδρες, ὁ κληῖρος, περὶ οὗ νῦν ὁ λόγος ἐστί, Κυρωνίδου μὲν ἐκποιήτου γενομένου εἰς τὸν Ξεναινέτου οἶκον, τοῦ δὲ πατρός Ἀριστάρχου τῷ υἱὲ Δημοχάρει καταλιπόντος, ἐκείνου δὲ τῇ ἀδελφῇ τῇ ἑαυτοῦ ταύτῃ, μητρὶ δὲ ἐμῇ.<sup>1</sup> δεῖ δέ, ἐπειδὴ λίαν ἀναισχυντοῦσιν, ὦ ἄνδρες, καὶ τὰ χρήματα παρὰ τὸ δίκαιον ἔχειν ἀξιουσι, μαθεῖν ὑμᾶς ὡς οὐδὲ καθ' ἓνα νόμον Ἀρίσταρχος εἰς τοὺς φράτορας τοὺς ἐκείνου εἰσῆκται· ἐὰν γὰρ τοῦτο μάθητε, σαφῶς εἴσεσθε ὅτι τῷ μὴ δικαίως ἔχοντι οὐδὲ 9 διατίθεσθαι περὶ αὐτῶν προσῆκεν. οἶμαι τοίνυν πάντας ὑμᾶς εἰδέναι, ὦ ἄνδρες, ὅτι κατὰ διαθήκας αἱ εἰσαγωγαὶ τῶν εἰσποιήτων γίνονται, διδόντων τὰ ἑαυτῶν<sup>2</sup> καὶ υἱεῖς ποιουμένων, ἄλλως δὲ οὐκ ἔξεστιν. εἴτε οὖν Ἀρίσταρχον φήσει τις αὐτὸν διαθέσθαι, οὐκ ἀληθῆ λέξει· γνησίου γὰρ ὄντος αὐτῷ Δημοχάρους υἱός οὐτ' ἂν ἐβούλετο ταῦτα [δια-] πρᾶξαι, οὔτε ἐξῆν δοῦναι τὰ ἑαυτοῦ ἐτέρῳ· εἴτε Ἀριστάρχου τελευτήσαντος Δημοχάρην αὐτὸν ποιή- 10 σασθαι, καὶ ταῦτα ψεύσονται. παιδὸς γὰρ οὐκ ἔξεστι διαθήκην γενέσθαι· ὁ γὰρ νόμος διαρρήδην κωλύει παιδὶ μὴ ἐξεῖναι συμβάλλειν μηδὲ γυναικὶ πέρα μεδίμνου κριθῶν. μεμαρτύρηται δὲ Ἀρίσταρχον μὲν πρότερον Δημοχάρους τοῦ υἱός τελευτῆσαι, ἐκείνον δὲ ὕστερον τοῦ πατρός· ὥστε κατὰ γε διαθήκην ἐκείνων, οὐδ' εἰ διέθεντο προσῆκεν αὐτῷ τούτων τῶν χρημάτων κληρονομῆσαι. ἀνά-

<sup>1</sup> ἐμῇ Aldus: ἐμοί.<sup>2</sup> τὰ ἑαυτῶν Sauppe: τε αὐτῶν.

<sup>a</sup> Which would be invalid because Aristarchus (I.) could not make a will in favour of anyone except Demochares, and predeceased Demochares, who, having died under age, was incapable of making a will.

## ON THE ESTATE OF ARISTARCHUS, 8-10

belonged to my mother from the beginning, since Cyronides was adopted out of the family into that of Xenaenetus (I.), and his father, Aristarchus (I.), left his property to his son Demochares, who left it to his own sister, my mother. But since they are so exceedingly impudent and claim this fortune against all right, you must see, gentlemen, that no law whatever authorized the introduction of Aristarchus (the younger) into the ward of Aristarchus (the elder); if you see this, you will clearly apprehend that the illegal detainer of the property had no right to dispose of it either. I think that you are all aware, gentlemen, that the introduction of adopted children is always carried out by a will, the testator simultaneously devising his estate and adopting the son, and that this is the only legal method. If, therefore, anyone shall assert that Aristarchus (I.) himself made a will, he will be saying what is not true; for, while he possessed a legitimate son, Demochares, he could not have wished to do so and he was not permitted to devise his property to anyone else. Again, if they declare that Demochares adopted Aristarchus (II.) after the death of Aristarchus (I.), they will likewise be lying. For a minor is not allowed to make a will; for the law expressly forbids any child—or woman—to contract for the disposal of more than a bushel of barley. Now evidence has been given you that Aristarchus (I.) predeceased his son Demochares and that the latter died after his father; and so, even supposing they had made wills, Aristarchus (II.) could never have inherited this property under their wills.<sup>a</sup> Now read the laws



γνωθι δὴ καὶ τοὺς νόμους, καθ' οὓς οὐδετέρῳ αὐτῶν ἐξῆν διαθήκας ποιήσασθαι.

NOMOI

- 11 Οὐ τοίνυν, ὦ ἄνδρες, οὐδὲ Κυρωνίδην οἶόν τε ἦν ὑὸν Ἀριστάρχῳ εἰσποιῆσαι, ἀλλ' αὐτῷ μὲν ἐπανελθεῖν εἰς τὸν πατρῶον οἶκον ἐξῆν, ὑὸν ἐγκαταλιπόντα ἐν τῷ Ξεναιέτου οἴκῳ, ἐξ αὐτοῦ δὲ ἀντεισαγαγεῖν<sup>1</sup> οὐκ ἔστι νόμος· ἢ ἐὰν φῶσι, ψεύσονται. ὥστε οὐδ' ἂν φάσκωσιν ὑπ' ἐκείνου <εἰς>ποιηθῆναι,<sup>2</sup> νόμον ἔξουσι δεῖξαι καθ' ὃν ἐξῆν αὐτῷ ταῦτα πράξαι, ἀλλ' ἐξ ὧν αὐτοὶ λέγουσιν ἔτι φανερώτερον ὑμῖν γενήσεται τοῦτο, ὅτι παρανόμως
- 12 καὶ ἀσελγῶς ἔχουσι τὰ τῆς μητρὸς χρήματα. καὶ μὲν δὴ, ὦ ἄνδρες, οὐδὲ Ἀριστομένει γε οὐδὲ Ἀπολλοδώρῳ, οἷς προσῆκε<sup>3</sup> τῆς ἐμῆς μητρὸς ἐπιδικάσασθαι, οὐδὲ τούτοις ἐξῆν. θαυμαστὸν γὰρ ἂν ἦν, εἰ τὴν ἐμὴν μητέρα ἔχοντι Ἀπολλοδώρῳ ἢ Ἀριστομένει οὐκ ἂν οἶόν τε ἦν τῶν ἐκείνης κυρίῳ γενέσθαι, κατὰ τὸν νόμον ὃς οὐκ ἔῃ τῶν τῆς ἐπικλήρου κύριον εἶναι, ἀλλ' ἢ τοὺς παῖδας ἐπὶ δίετες
- [81] ἡβήσαντας | κρατεῖν τῶν χρημάτων, ἀλλ' ἑτέρῳ αὐτὴν ἐκδόντι ἐξέσται εἰς τὰ ταύτης χρήματα ὑὸν
- 13 εἰσποιῆσαι. δεινὰ μέντ' ἂν γίγνοιτο. καὶ τῷ μὲν πατρὶ αὐτῆς, εἰ παῖδες ἄρρενες μὴ ἐγένοντο, οὐκ ἂν ἐξῆν ἀνευ ταύτης διαθέσθαι· κελεύει γὰρ ὁ νόμος σὺν ταύταις κύριον εἶναι δοῦναι, ἐὰν τῷ βούληται,<sup>4</sup> τὰ ἑαυτοῦ· τῷ δὲ μήτε λαβεῖν αὐτὴν

<sup>1</sup> ἀντεισαγαγεῖν Dobree: ἂν τις ἀναγαγεῖν.

<sup>2</sup> <εἰς>ποιηθῆναι Aldbrecht.

<sup>3</sup> προσῆκε Reiske: -ῆκει.

<sup>4</sup> βούληται Dobree: -οιτο.



## ON THE ESTATE OF ARISTARCHUS, 10-13

which show that neither of them had the right to make a will.

### LAWS

Nor again, gentlemen, could Cyronides give Aristarchus (I.) a son by adoption; he could, it is true, have returned to his father's family, if he had left a son in the family of Xenaenetus (I.), but there is no law which permits him to introduce a son of his own to take his place. If they assert the existence of such a law they will be lying. So, not even if they assert that the adoption was carried out by Cyronides, will they be able to point to any law which authorized him to do so; but from their own assertions it will become still more evident to you that they are illegally and impudently detaining my mother's property. Furthermore, gentlemen, though Aristomenes or Apollodorus might have had my mother adjudicated to them in marriage, yet they had no right to her estate. Seeing that neither Apollodorus nor Aristomenes, if either of them had married my mother, could possibly have had the disposal of her property—in accordance with the law which does not allow anyone to have the disposal of the property of an heiress except her sons, who obtain possession of it on reaching the second year after puberty—it would be strange if Aristarchus is going to be allowed, after giving her in marriage to another, to introduce a son to inherit her fortune. It would indeed be an extraordinary state of affairs. Again, her own father, in default of male heirs, could not have disposed of his estate without disposing of her with it; for the law ordains that he may dispose of his property to whomsoever he wishes, if he disposes of his daughters with it. But

- ἀξιώσαντι μήτε πατρὶ ὄντι, ἀλλ' ἀνεψιῷ, παρὰ πάντας τοὺς νόμους εἰσαγαγόντι ἔσται κυρίως ταῦτα πεπραγμένα; καὶ τίς ὑμῶν ταῦτα πεισθή-  
 14 σεται; ἐγὼ μὲν, ὦ ἄνδρες, σαφῶς ἐπίσταμαι ὅτι οὔτε Ξεναίνετος οὔτε ἄλλος οὐδεὶς ἀνθρώπων ἔξει ἀποδείξαι ὥς οὐ τῆς ἐμῆς μητρὸς οὗτος <ὁ><sup>1</sup> κληρὸς ἐστι, τοῦ ἀδελφοῦ αὐτῇ τοῦ Δημοχάρους καταλιπόντος· ἐὰν δ' ἄρα τολμῶσι περὶ αὐτῶν λέγειν, νόμον κελεύετε δεῖξαι καθ' ὃν γεγένηται ἢ εἰσποιήσιν Ἀριστάρχῳ, καὶ τίς ὁ εἰσποιήσας· τοῦτο γὰρ δίκαιόν ἐστιν. ἀλλ' οἶδ' ὅτι οὐχ ἔξουσιν ἐπιδείξαι.
- 15 Περὶ μὲν οὖν τοῦ τὸν κληρὸν εἶναι τῆς μητρὸς ἐξ ἀρχῆς καὶ ἀδίκως αὐτὴν ὑπὸ τούτων ἀπεστερηθῆσθαι, ἕκ τε τῶν εἰρημένων καὶ μεμαρτυρημένων καὶ ἐξ αὐτῶν τῶν νόμων ἱκανῶς ἡγοῦμαι ἀποδεδείχθαι. οὕτω δὲ καὶ τούτοις φανερόν ἐστιν ὅτι οὐ προσηκόντως ἔχουσι ταῦτα τὰ χρήματα, ὥστε οὐκ ἐπὶ τῷ δικαίως Ἀρίσταρχον εἰσαχθῆναι εἰς τοὺς φράτορας τὸν λόγον ποιοῦνται μόνον ἀλλὰ καὶ δίκην φασὶν ὑπὲρ τούτων τῶν χρημάτων τὸν πατέρα τὸν ἑαυτῶν ἐκτετικέναι, ἵνα, ἂν μὴ κατ' ἐκεῖνον δικαίως δοκῶσιν ἔχειν, κατὰ γε ταῦτα  
 16 εἰκότως προσῆκον αὐτοῖς φαίνεται. ἐγὼ δ', ὦ ἄνδρες, ὅτι οὐκ ἀληθῆ λέγουσι, μεγάλοις ὑμᾶς τεκμηρίοις διδάξω. εἰ γὰρ ἦν, ὥς οὔτοι λέγουσιν, ὑπόχρεως οὗτος ὁ κληρὸς, οὗτ' ἂν χρήματα οὔτοι

<sup>1</sup> ὁ add. Sauppe.

<sup>a</sup> Wyse suggests that Aristarchus I. died in debt to the state and therefore without civic rights, and that Cyronides settled his liabilities to save the estate from confiscation and the heir from the disabilities which he would inherit.

when one who has refused to take the heiress in marriage and is not her father but her cousin, introduces an heir to her fortune in violation of every law, is this to be recognized as a valid act? Who of you can possibly believe it to be so? For myself, gentlemen, I am perfectly certain that neither Xenaenetus nor anyone else can prove that this estate does not belong to my mother, having come to her through her brother Demochares. But, if, after all, they venture to deal with the question, order them to indicate the law under which the adoption has been carried out in favour of Aristarchus (II.) and to declare who carried it out. This is a perfectly just demand. But I know that they will not be able to indicate any such law.

That the estate, then, belonged to my mother from the beginning and that she has been unjustly deprived of it by my opponents, has, I think, been sufficiently demonstrated by my arguments, by the evidence which has been produced, and by the citation of the actual laws. Indeed, these men are so perfectly well aware that they are wrongfully in possession of this fortune that they do not rest their argument solely upon the legality of the introduction of Aristarchus (II.) to the members of the ward, but also allege that Xenaenetus's father has paid a judgement-debt on behalf of the estate,<sup>a</sup> in order that, if their claim on the former ground should not seem just, it may appear that they have a good claim to the estate on the second ground. I shall show you, gentlemen, by convincing proofs that there is no truth in what they say. For if, as they allege, this estate had been insolvent, they would never have expended any money upon it—

- ὑπὲρ αὐτῶν ἐξέτινον (οὐ γὰρ προσῆκεν<sup>1</sup> αὐτοῖς, ἀλλ' οἷς ἐγένετο ἢ ἐμὴ μήτηρ ἐπίδικος, τούτοις ἀναγκαῖον ἦν ὑπὲρ αὐτῶν βουλευσασθαι), οὔτε ἂν εἰσεποιοῦν<sup>2</sup> εἰς τοῦτον τὸν κλῆρον ὕὸν Ἀριστάρχῳ, μέλλοντες ὠφεληθήσεσθαι μὲν μηδέν, ζημιωθήσε-
- 17 σθαι δὲ μεγάλα. ἢ ἕτεροι μὲν, ὅταν περὶ χρημάτων δυστυχῶσι, τοὺς σφετέρους αὐτῶν παῖδας εἰς ἑτέρους οἴκους εἰσποιοῦσιν, ἵνα μὴ μετάσχωσι τῆς τοῦ πατρὸς ἀτιμίας· οὔτοι δὲ ἄρα εἰς ὑπόχρεων οὐσίαν καὶ οἶκον<sup>3</sup> εἰσεποιοῦν σφᾶς αὐτούς, ἵνα καὶ τὰ ὑπάρχοντα προσαπολέσειαν; οὐκ ἔστι ταῦτα, ἀλλ' ὁ μὲν κλῆρος ἐλεύθερος ἦν καὶ τῆς ἐμῆς μητρὸς ἐγένετο, οὔτοι δὲ φιλοχρηματοῦντες καὶ ἐκείνην ἀποστεροῦντες ταῦτα πάντα ἐμηχανήσαντο.
- 18 Ἴσως οὖν <ἂν><sup>4</sup> τις, ὦ ἄνδρες, τὸν χρόνον ὑμῶν θαυμάσειε, πῶς ποτε πολὺν οὕτως εἰάσαμεν καὶ ἀποστερούμενοι οὐκ ἤμεν ἐπ' αὐτά, ἀλλὰ νυνὶ περὶ αὐτῶν τοὺς λόγους ποιούμεθα. ἐγὼ δὲ οἶμαι μὲν οὐ δίκαιον εἶναι διὰ τοῦτο ἔλαττον ἔχειν, εἴ τις μὴ ἐδυνήθη ἢ κατημέλησεν (οὐ γὰρ τοῦτό ἐστι σκεπτέον, ἀλλὰ τὸ πρᾶγμα εἰ δίκαιον ἢ μή)· ὅμως μέντοι καὶ περὶ τούτων αἴτιον εἰπεῖν ἔχομεν, ὦ
- 19 ἄνδρες. ὁ γὰρ πατὴρ οὐμὸς ἐπὶ προικὶ ἐγγυησάμενος τὴν ἐμὴν μητέρα συνώκει, τὸν δὲ κλῆρον τούτων καρπουμένων οὐκ εἶχεν ὅπως εἰσπράξαιτο· ὅτε γὰρ περὶ αὐτοῦ λόγους ἐποιήσατο τῆς μητρὸς κελευούσης, οὔτοι ταῦτα αὐτῷ ἠπείλησαν, αὐτοὶ ἐπιδικασάμενοι αὐτὴν ἔξειν, εἰ μὴ βούλοιτο αὐτὸς

<sup>1</sup> προσῆκεν Reiske: -ον.<sup>2</sup> εἰσεποιοῦν Aldus: εἰσποιεῖν.<sup>3</sup> οἶκον Scheibe: οἴκοθεν.<sup>4</sup> ἂν add. Baiter-Sauppe.

## ON THE ESTATE OF ARISTARCHUS, 16-19

for it was not their business to do so, but those who had the right to claim my mother's hand ought to have concerned themselves with the matter—nor would they have introduced a son as the adopted child of Aristarchus (I.) to inherit his estate, if they were not going to get any advantage but only suffer considerable loss. Other people indeed, when they have had monetary losses, introduce their children into other families in order that they may not share in their parents' loss of civic rights; and did my opponents adopt themselves into a succession and family which was insolvent, in order that they might lose in addition what they already possessed? Nay, it is impossible; the estate was unencumbered and descended to my mother, and these men, in their greed for money and their anxiety to rob her, devised all this story.

Some among you, gentlemen, may be surprised at the delay, and ask how it is that we allowed so long an interval to elapse, and, being defrauded, took no steps in the matter, and are only now putting in our claim. Now, although I think it unjust that anyone should have less than his due rights through inability or neglect to assert them—for such a consideration should not be taken into account, but only the justice or injustice of his plea—yet even for this delay, gentlemen, we can furnish an explanation. My father received a dowry when he engaged himself to my mother and married her, but, while these men were enjoying the estate, he had no means of obtaining its restitution; for when, at my mother's instance, he raised the question, they threatened that they themselves would obtain the adjudication of her hand and marry her, if he were

- ἐπὶ προικὶ ἔχειν. ὁ δὲ πατήρ, ὥστε τῆς μητρὸς μὴ στερηθῆναι, καὶ δις τοσαῦτα χρήματα εἶασεν  
 20 ἂν αὐτοὺς καρποῦσθαι. καὶ τοῦ μὲν τὸν πατέρα μὴ ἐπεξελθεῖν ὑπὲρ τούτων τοῦτό ἐστι τὸ αἴτιον· μετὰ δὲ ταῦτα ὁ Κορινθιακὸς πόλεμος ἐγένετο, ἐν ᾧ ἐγὼ καὶ κείνος στρατεύεσθαι ἡναγκαζόμεθα, ὥστε οὐδετέρῳ ἂν ἡμῶν δίκην ἐξεγένετο λαβεῖν. εἰρήνης τ' αὖ γενομένης ἐμοί τι ἀτύχημα πρὸς τὸ δημόσιον συνέβη, ὥστε μὴ ῥάδιον εἶναι πρὸς τοὺς διαφέρεσθαι. ὥστε οὐ μικρὰς ἔχομεν αἰτίας  
 21 περὶ τοῦ πράγματος. ἀλλὰ νυνὶ δίκαιον εἰπεῖν ἐστίν, ᾧ ἄνδρες, τίνος δόντος [ἔχει] τὸν κλῆρον, κατὰ ποίους νόμους εἰς τοὺς φράτορας εἰσῆκται, καὶ  
 [82] πῶς | οὐκ ἐπὶ κληρὸς ἦν ἐπὶ τούτοις τοῖς χρήμασιν ἢ ἐμὴ μήτηρ. ταῦτα γάρ ἐστι περὶ ὧν ὑμᾶς δεῖ τὴν ψῆφον ἐνεγκεῖν, οὐκ εἰ χρόνῳ τι ὕστερον ἡμεῖς τῶν ἡμετέρων εἰσπραττόμεθα. μὴ δυνηθέντων δὲ ἐπιδεῖξαι, δικαίως ἂν ἐμὸν αὐτὸν εἶναι ψηφίσαισθε.
- 22 Τοῦτο μὲν οἶδ' ὅτι ποιεῖν οὐχ οἰοί τ' ἔσονται· χαλεπὸν γὰρ πρὸς νόμους καὶ δίκαιον πράγμα ἀντιλέγειν ἐστί· περὶ δὲ τοῦ τεθνεώτος λέξουσιν, ἐλεοῦντες ὡς ἀνὴρ ὢν ἀγαθὸς ἐν τῷ πολέμῳ τέθνηκε, καὶ ὅτι οὐ δίκαιόν ἐστι τὰς ἐκείνου διαθήκας ἀκύρους καθιστάναι. ἐγὼ δὲ καὶ αὐτός, ᾧ ἄνδρες, οἶμαι δεῖν κυρίας εἶναι τὰς διαθήκας, ἃς <ἂν><sup>1</sup> ἕκαστος διαθῆται περὶ τῶν ἑαυτοῦ, περὶ μέντοι τῶν ἀλλοτρίων οὐ κυρίας εἶναι τὰς διαθήκας, ὥσπερ ἃς ἂν ἕκαστος περὶ τῶν αὐτοῦ διαθῆται.

<sup>1</sup> ἂν add. Baiter-Sauppe.

not satisfied to keep her with only a dowry. Now my father would have allowed them to enjoy an estate of even double the value so as not to be deprived of her. That is why my father never brought a suit for the estate. Then came the Corinthian war,<sup>a</sup> in which my father and I were obliged to serve, so that neither of us could have obtained justice. When peace was restored, I had unfortunate difficulties with the public treasury,<sup>b</sup> so that it was not easy for me to contend with my opponents. Thus we have good reasons for our conduct in the matter. But the time has now come when it is only right that my opponent should declare who it was that gave him the estate, and what laws justify his introduction in the ward, and why it is that my mother was not heiress to this fortune. These are the points on which you must give your verdict, not as to whether we are late in demanding what is our own. If they cannot explain these points, you would be justified in deciding that the estate is mine.

I am sure they will not be able to do so ; for it is difficult to argue against law and justice. But they will talk about the deceased, saying how sad it is that so brave a man has fallen in battle and declaring that it is unjust to set aside his will. I myself, gentlemen, am of opinion that any will which a man may make about his own property ought to be valid, but that wills which concern other people's property ought not to have the same validity as those in which a man disposes of what is his own.

<sup>a</sup> 394-386 B.C.

<sup>b</sup> Debtors to the public treasury were temporarily deprived of their rights as citizens and therefore could not engage in litigation.



- 23 ταῦτα δὲ οὐ τούτων ὄντα ἀλλ' ἡμέτερα φαίνεται.  
 ὥστε ἂν ἐπὶ τοῦτον τὸν λόγον καταφεύγῃ καὶ  
 μάρτυρας παρέχῃται ὡς διέθετο ἐκείνος, ἐπι-  
 δεικνύναι κελεύετε καὶ ὡς<sup>1</sup> τὰ ἑαυτοῦ. τοῦτο γὰρ  
 δίκαιόν ἐστι. δεινότατα γὰρ <ἂν><sup>2</sup> πάντων γένοιτο,  
 εἰ Κυρωνίδης μὲν καὶ οὔτοι, ὄντες ἐξ ἐκείνου,  
 μὴ μόνον τὸν Ξεναιέτου οἶκον πλέον ἢ τεττάρων  
 ταλάντων ἔξουσιν, ἀλλὰ καὶ τόνδε προσλήψονται,  
 ἐγὼ δὲ τῆς μητρὸς οὔσης κυρίας καὶ ἐκ τῶν αὐ-  
 τῶν Κυρωνίδῃ γεγεννημένος εἰ μηδὲ τὸν τῆς μητρὸς  
 κλῆρον λήψομαι, καὶ ταῦτα μηδὲ ἐχόντων τού-  
 24 των ἐπενεγκεῖν παρ' ὅτου ποτ' εἰλήφασιν. καίτοι  
 δίκαιον, ὦ ἄνδρες, ὥσπερ τῶν ἀμφισβητησίμων<sup>3</sup>  
 χωρίων δεῖ τὸν ἔχοντα ἢ θέτην ἢ πρατῆρα<sup>4</sup> παρ-  
 ἔχεσθαι ἢ καταδεδικασμένον φαίνεσθαι, οὕτω καὶ  
 τούτους καθ' ἓν τι τούτων ἀποφῆναντας αὐτοῦ<sup>5</sup>  
 ἀξιούν ἐπιδικάζεσθαι, μὴ πρὸ δίκης τὴν Ἀριστ-  
 ἀρχου θυγατέρα, ἐμὴν δὲ μητέρα, ἐκ τῶν πατρώων  
 25 ἐκβάλλειν. ἀλλὰ γάρ, ὦ ἄνδρες, οὐχ ἱκανόν ἐστι  
 Ξεναιέτῳ τὸν Ἀριστομένους οἶκον καταπεπαι-  
 δεραστηκέναι, ἀλλὰ καὶ τοῦτον οἶεται δεῖν τὸν  
 αὐτὸν τρόπον διαθεῖναι. ἐγὼ δ', ὦ ἄνδρες δικα-  
 σταί, βραχείας οὐσίας ὑπαρξάσης ἀδελφὰς μὲν  
 ἐξέδωκα, ὅσα ἐδυνάμην ἐπιδούς, κόσμιον δ'<sup>6</sup>  
 ἐμavτὸν παρέχων καὶ ποιῶν τὰ προσταττόμενα  
 καὶ τὰς στρατείας στρατευόμενος ἀξιῶ τῶν τῆς  
 26 μητρὸς πατρώων μὴ ἀποστερηθῆναι. ἀπέδειξα δ'  
 ὑμῖν Κυρωνίδην μὲν τὸν τούτων πατέρα ἐκποίητον

<sup>1</sup> καὶ ὡς Sauppe: δικαίως.

<sup>2</sup> ἂν add. Bekker.

<sup>3</sup> ἀμφισβητησίμων Aldus: -τήσεων.

<sup>4</sup> πρατῆρα Stephanus: πρακτῆρα.

<sup>5</sup> αὐτοῦ Schoemann: αὐτὸν.

<sup>6</sup> κόσμιον δ' Reiske: κόσμιόν τ'.



Now this property is clearly not theirs but ours ; and so, if he takes refuge in this argument and produces witnesses to testify that Aristarchus (I.) made a will, you must order him to prove also that what he devised was his own. This is only just, for it would be a most terrible state of affairs if Cyronides and my opponents, his children, are not only to possess the fortune of Xenaenetus (I.) of the value of more than four talents, but are also to receive this estate, while I, though my mother was the rightful owner and I am descended from the same ancestors as Cyronides, am not to receive even my mother's estate, especially as these men cannot indicate the person through whom it has been transmitted to them. Yet in all justice, just as the holder of a disputed piece of land must produce the mortgagee or vendor, or else prove that he has had it adjudicated to him by the court, so ought these men to set forth their titles in detail and claim to have the estate adjudicated to them, instead of ejecting my mother, the daughter of Aristarchus (I.), from her paternal inheritance before any suit has been heard. But no doubt, gentlemen, it is not enough for Xenaenetus (II.) to have dissipated the fortune of Aristomenes in unnatural debauchery ; he thinks that he ought to dispose of this estate also in like manner. I, on the other hand, gentlemen, though my means are slender, bestowed my sisters in marriage, giving them what dowry I could ; and as one who leads an orderly life and performs the duties assigned to him and serves in the army, I demand not to be deprived of my mother's paternal estate. I have proved to you that Cyronides, the father of my opponents,

## ISAEUS

γενόμενον καὶ οὐκ ἐπανελθόντα εἰς τὸν πατρῶον οἶκον, τὸν δὲ πατέρα τὸν Κυρωνίδου καὶ τῆς ἐμῆς μητρὸς Δημοχάρει τῷ υἱῷ τοῦτον τὸν κλῆρον καταλιπόντα, ἐκεῖνον δὲ παῖδα<sup>1</sup> ὄντα τελευτήσαντα καὶ εἰς τὴν ἐμὴν μητέρα τοῦτον τὸν κλῆρον ἐπιγιγνόμενον.

<sup>1</sup> παῖδα Meutzner: ἄπαιδα.

was adopted into another family and did not return to his father's house ; that the father of Cyronides and of my mother left this estate to Demochares ; that Demochares died in his minority, and that it was upon my mother that this estate then devolved.



XI. ON THE ESTATE OF HAGNIAS

## XI. ON THE ESTATE OF HAGNIAS

### INTRODUCTION

THE parties in this case belonged to a large family, of which a complete pedigree<sup>a</sup> can be constructed, thanks to the additional material provided by the Pseudo-Demosthenic speech *Against Macartatus* ([Dem.] xliii.).

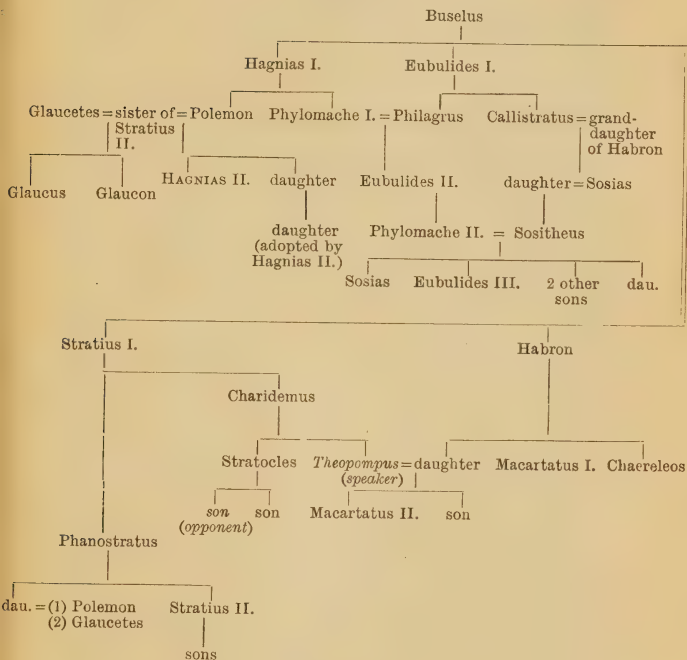
Hagnias II. on his way to Persia on an embassy in the year 396 B.C. was captured by the Spartan commander, Pharax, and handed over to the Spartans, by whom he was put to death.<sup>b</sup> By his will he adopted his niece and left her his property; if she died, the property was to pass to his half-brother, Glaucon, the son of his mother and of Glaucetes of Aeum ([Dem.] xliii. 4). The daughter having died at an early age, the claims of Glaucon were attacked by Eubulides II., who stood in a double relation to Hagnias II., being a second cousin on his father's side and a first cousin through his mother. Eubulides died before the case could be tried, but his claims were taken up on behalf of his daughter Phylomache II., with the result that the will was annulled and the estate awarded to her. The effect of this judge-

<sup>a</sup> For Stemma see opposite page.

<sup>b</sup> *Hellenica Oxyrhynchia*, ii. 1, gives an account of this incident. The date 396 B.C. is deduced from the mention of other events in the same passage.

# ON THE ESTATE OF HAGNIAS

## STEMMA<sup>1</sup>



<sup>1</sup> Cf. F. Kirchner, *Prosopographia Attica*, i. p. 192.

## ISAEUS

ment was to encourage other second cousins of Hagnias to put in a claim, namely, Stratius II., Stratocles, and Theopompus. Stratius and Stratocles, however, died before the case came on, and Theopompus fought the case by himself. According to Isaeus, the three parties were Theopompus, Phylomache II., and the mother of Hagnias, who was also a second cousin of her own son. According to the Pseudo-Demosthenes, however, there were five claimants, Phylomache II., Theopompus, Glaucon, and his brother Glaucus, and Eupolemus, of whom nothing else is known. The discrepancy between the two accounts is remarkable, especially the omission by Isaeus of the names of Glaucon and Glaucus. The estate was awarded to Theopompus, whose claim appears to have had but little basis, since, being a second cousin, he was really outside the right of succession to an intestate estate, which only extended to the child of a first cousin. There can be little doubt that the claims of Glaucon and Glaucus were stronger, since, in default of relatives within the requisite degree on the male side, the estate should have passed to the nearest relative on the maternal side, and they were half-brothers of Hagnias. The omission of their names by Isaeus in his references to this case was probably deliberate.

Theopompus was not allowed to assume possession of the estate without further opposition. This took the form of a prosecution for the maltreatment of an orphan, namely, the son of his brother Stratocles, whose guardian he was, brought by a fellow-guardian of the child, who accused Theopompus of having defrauded his nephew of half Hagnias's estate. It was in answer to this charge that Isaeus was



## ON THE ESTATE OF HAGNIAS

employed to write the present speech. It is perhaps the best example of Isaeus's extraordinary skill in presenting a bad case in a plausible manner.

The speech opens abruptly with the citation of the law regulating the succession of collateral relatives to an intestate estate. Under this law, in the absence of a brother or sister by the same father as the deceased, an estate passed to first cousins on the father's side and their children; if these failed, the title reverted to the relatives on the mother's side in the same order. Theopompus had no difficulty in showing that his ward was outside the requisite degree of kinship, being the son of a second cousin, but he skilfully glosses over the fact that he himself was also outside the degree of relationship prescribed by the law, being a second cousin. His opponent had asserted that Theopompus had bargained with Stratocles before his death, and afterwards with his nephew, to share the estate. This, Theopompus says, is absurd; for it was unnecessary to make such an arrangement with Stratocles, since their claims were identical, and he would never have compromised with his nephew, who had no shadow of a title to the estate. Again, if the orphan had justice on his side, why had not his representative brought a civil action for damages instead of employing the indirect method of a criminal prosecution? The attempt of the other side to prove that Theopompus is rich and miserly, while the orphan is poor, is met by a detailed statement of their respective fortunes with the object of showing that the speaker is poor, and that, by his careful management, the orphan's estate has been largely increased. The conclusion of the speech is lost.

## ISAEUS

It says much for the skill of Isaeus in making the worse cause appear the better that Theopompus was acquitted. He enjoyed the estate for the rest of his life in spite of a further prosecution for perjury of one or more of the witnesses who had given evidence on his behalf in the earlier suit against Phylomache II. On his death the estate passed to his son Macartatus, whose title was attacked by Sositheus, the husband of Phylomache II., acting on behalf of his second son, Eubulides III., whom he had enrolled as the adopted son of Eubulides II., his maternal grandfather, thus bringing him within the requisite degree of relationship as the son of a first cousin of the original tenant of the estate, Hagnias II. The Pseudo-Demosthenic speech *Against Macartatus* was delivered in this suit. It is wordy and ill-arranged, and its perusal makes the reader appreciate still more highly the extraordinary skill attained by Isaeus in the representation of a case of this kind.

A deposition inserted in the Pseudo-Demosthenic speech (§ 31) states that the earlier trial, as a result of which the will was annulled and the estate awarded to Phylomache II., took place in the archonship of Nicophemus (361–360 B.C.). If this deposition is genuine, the present speech would have to be dated a few years later; Jebb suggests 359 B.C. There can be little doubt that this is too late a date. It has already been seen that, thanks to the *Hellenica Oxyrhynchia*, the death of Hagnias can be dated at 396 B.C.; it is scarcely possible that thirty-five years can have elapsed between that event and the present speech. An incident mentioned in the speech, the adventure of Macartatus I. in Crete (§ 48), which

## ON THE ESTATE OF HAGNIAS

appears to have made a stir at the time and to have endangered the relations between Athens and Sparta, might have provided a clue, but there is no reference to it elsewhere. A privateering enterprise of this kind is, however, more likely to have occurred during the period when the Spartans were masters at sea as well as on land, that is to say, before the Athenians recovered their naval power in 378 B.C. Thus, while we have not the necessary material for fixing the exact date of this speech, it appears to be considerably earlier than that indicated by the deposition in the Pseudo-Demosthenic oration, which, like many similar documents, is probably a fabrication.

## ΥΠΟΘΕΣΙΣ

Ἄγνίας τις εἶχεν ἀνεψιοὺς πολλοὺς, Θεόπομπον καὶ τὸν ἀδελφὸν αὐτοῦ Στρατοκλέα καὶ Στρατίον<sup>1</sup> καὶ Εὐβουλίδην. οὗτος μέλλων τελευτᾶν ἐποιήσατο θετὴν ἑαυτῷ<sup>2</sup> θυγατέρα, κελεύσας ἐν ταῖς διαθήκαις, εἴ τι πάθοι ἢ θυγάτηρ, ἔρχεσθαι τὸν κλῆρον εἰς Γλαύκωνα, ἀδελφὸν αὐτοῦ τυγχάνοντα ὁμομήτριον. ἐπὶ τούτοις αὐτοῦ τελευτήσαντος ἢ θυγάτηρ λαβοῦσα τὸν κλῆρον ἐτελεύτησεν. ἀποθανόντος δὲ καὶ Εὐβουλίδου ἢ θυγάτηρ αὐτοῦ, τοῦ Εὐβουλίδου, δικασαμένη πρὸς Γλαύκωνα ἔλαβε τὴν οὐσίαν. μετὰ ταῦτα τελευτησάντων καὶ τῶν περὶ τὸν Στρατοκλέα καὶ Στρατίον Θεόπομπος μόνος ἐδικάσατο πρὸς αὐτήν, καὶ ἔλαβε τὸν κλῆρον. πρὸς τοῦτον ὁ υἱὸς τοῦ ἀδελφοῦ αὐτοῦ, Στρατοκλέους, δικάζεται [πρὸς αὐτὸν] δι'<sup>3</sup> ἐπιτρόπου τινὸς [υἱός], φάσκων ἐξ ἴσου τὰ τῆς κληρονομίας ἀρμόζειν τῷ τε Θεοπόμπῳ καὶ τῷ παιδί τοῦ ἀδελφοῦ αὐτοῦ. ἢ στάσις πραγματική.

## &lt;ΝΟΜΟΙ&gt;

- 1 Διὰ ταυτ' ὑμῖν ἀνέγνων τοὺς νόμους, ὅτι κατὰ τὸν πρῶτον αὐτῶν ἰσχυρίζεται τῷ παιδί τοῦ ἡμικληρίου προσήκειν, οὐκ ἀληθῆ λέγων. οὐ γὰρ ἦν ἡμῖν Ἄγνίας ἀδελφός, ὁ δὲ νόμος περὶ ἀδελφοῦ χρημάτων πρῶτον ἀδελφοῖς τε καὶ ἀδελφιδοῖς πεποίηκε
- 388

## XI. ON THE ESTATE OF HAGNIAS

### ARGUMENT

A certain Hagnias had several cousins, namely, Theopompus, his brother Stratocles, Stratius, and Eubulides. When he was at the point of death he adopted a daughter, stipulating in his will that, if anything should happen to her, the estate should pass to Glaucon, who was his half-brother, his mother's son. After making these arrangements he died; and the daughter received the inheritance and then herself died. Eubulides having also died, his daughter brought an action against Glaucon and was awarded the estate. After this, Stratocles and Stratius having died, Theopompus, acting alone, brought a suit against her and was awarded the estate. It is against him that the son of his brother Stratocles brings an action through a guardian, alleged that the inheritance belongs in equal shares to Theopompus and to his brother's son. The discussion turns on a point of fact.

### LAWS

I have read you the laws because my opponent bases on the first of them the claim of the child to half the estate—a claim which is false. Hagnias, it is true, was not our brother; but in the matter of a brother's property the law <sup>a</sup> has given the right

<sup>a</sup> The text of the law is given in [Dem.] xliii. (Πρὸς Μακάριον) § 51.

<sup>1</sup> Στρατίων Scheibe: -τίαν.

<sup>2</sup> ἐαυτῷ Buermann: -τοῦ.

<sup>3</sup> δι' Schoemann: δὲ.

τὴν κληρονομίαν, ἂν ὦσιν ὁμοπάτορες· τοῦτο γὰρ ἐγγυτάτω τοῦ τελευτήσαντος <τὸ><sup>1</sup> γένος ἐστίν.  
 2 ἔαν δ' οὗτοι μὴ ὦσι, δεύτερον ἀδελφὰς ὁμοπατρίας καλεῖ καὶ παῖδας τοὺς ἐκ τούτων. ἔαν δὲ μὴ ὦσι, τρίτῳ γένει δίδωσι τὴν ἀγχιστείαν, ἀνεψιοῖς πρὸς πατρὸς μέχρι ἀνεψιῶν παίδων. ἔαν δὲ καὶ τοῦτ' ἐκλείπη [εἰς] τὸ γένος, πάλιν ἐπανέρχεται καὶ ποιεῖ τοὺς πρὸς μητρὸς τοῦ τελευτήσαντος κυρίου αὐτῶν, κατὰ ταῦτά<sup>2</sup> καθάπερ τοῖς πρὸς πατρὸς ἐξ  
 3 ἀρχῆς ἐδίδου τὴν κληρονομίαν. ταύτας ποιεῖ τὰς ἀγχιστείας ὁ νομοθέτης μόνας, συντομωτέρως<sup>3</sup> τοῖς ῥήμασιν ἢ ἐγὼ φράζω· τὴν μέντοι διάνοιαν ὧν βούλεται ταύτῃ δείκνυσιν. ὁ δὲ παῖς οὗτος οὐδὲ καθ' ἐν τούτων τῶν ὀνομάτων Ἀγνία προσήκει τῇ ἀγχιστεία, ἀλλ' ἔξω τῆς συγγενείας ἐστίν. ἵνα δ' ἀκριβῶς μάθητε περὶ ὧν ψηφιεῖσθε, τοὺς πολλοὺς λόγους ἐάσας οὗτος εἰπάτω ὃ τι ὁ παῖς προσήκει τουτωνὶ τῶν εἰρημένων τῷ τὸν κλῆρον καταλιπόντι· καὶ φανῇ κατὰ τι προσήκων, ἐκὼν ἐγὼ συγχωρῶ τὸ ἡμικλήριον εἶναι τοῦ  
 4 παιδός. εἰ δέ τοι μηδὲν τούτων ἔξει εἰπεῖν, πῶς οὐκ ἐλεγχθήσεται φανερώς ἐμὲ μὲν συκοφαντῶν, ὑμᾶς δ' ἐξαπατῆσαι παρὰ τοὺς νόμους ζητῶν; ἀναβιβασάμενος οὖν αὐτὸν ἐναντίον ὑμῶν ἐρωτήσω τὰ ἐν τοῖς νόμοις ὑπαναγιγνώσκων· οὕτω γὰρ εἴσεσθε εἰ προσήκει τῷ παιδί τῶν Ἀγνίου χρη-

<sup>1</sup> τὸ add. Sauppe.

<sup>2</sup> ταῦτα Taylor: ταῦτα.

<sup>3</sup> συντομωτέρως Reiske: -as.

## ON THE ESTATE OF HAGNIAS, 1-4

of inheritance first to brothers and nephews provided they are on the father's side ; for they are related to the deceased in the nearest degree. In default of these, the law next names sisters by the same father and their issue. If these fail, it gives the right of succession as next-of-kin to the third degree, namely, first cousins on the father's side including their children. If this degree is also lacking, the law goes back and gives the succession to the relatives of the deceased on his mother's side on the same principles as originally regulated the rights of inheritance by the relatives on the father's side. These are the only rights of next-of-kin which the framer of the law recognizes ; the wording which he employs is briefer than my paraphrase, but he shows his intention quite clearly in the text of the law. This child does not possess a single one of these titles as next-of-kin to Hagnias, but is outside all relationship. In order that you may know exactly upon what points you are going to give your verdict, I challenge my opponent to state, without superfluous words, in which of the above-mentioned degrees of relationship this child stands to the former tenant of the estate. If he can be shown to be in any way related, I willingly concede that half the estate is his. If, on the other hand, he cannot prove the existence of any such relationship, surely he will be clearly convicted of bringing a vexatious suit against me and of trying to deceive you in contravention of the laws. I intend, therefore, to make him stand up before you and to interrogate him, reading out the text of the law. You will thus learn whether, or no, the child has any right to the fortune of Hagnias. (*To the Clerk*)

μάτων ἢ μή. λαβὲ οὖν αὐτοῖς τοὺς νόμους· σὺ δ' ἀνάβηθι δεῦρο, ἐπειδὴ δεινὸς εἶ διαβάλλειν καὶ τοὺς νόμους διαστρέφειν. σὺ δ' ἀναγίγνωσκε.

ΝΟΜΟΙ

5 Ἐπίσχεσ. ἐρωτήσω σέ. ἀδελφός ἐσθ' ὁ παῖς Ἀγνίου <ἦ><sup>1</sup> ἀδελφιδοῦς ἐξ ἀδελφοῦ ἢ ἐξ ἀδελφῆς γεγονώς, ἢ ἀνεψιός, ἢ ἐξ ἀνεψιοῦ πρὸς μητρὸς ἢ πρὸς πατρός; τί τούτων τῶν ὀνομάτων, οἷς ὁ νόμος τὴν ἀγχιστείαν δίδωσι; καὶ ὅπως μὴ ἐκεῖνο ἐρεῖς, ὅτι ἐμὸς ἀδελφιδοῦς. οὐ γὰρ περὶ τοῦ ἐμοῦ κλήρου νῦν ὁ λόγος ἐστί· ζῶ γάρ. εἰ δ' ἦν ἄπαις ἐγὼ τετελευτηκὼς καὶ ἡμφισβήτει τῶν ἐμῶν, τοῦτο ἂν προσῆκεν<sup>2</sup> ἀποκρίνασθαι ἐρωτωμένῳ. νῦν δὲ φῆς τῶν Ἀγνίου χρημάτων τὸ ἡμικλήριον εἶναι τοῦ παιδός· δεῖ δὴ σε τῆς ἀγχιστείας, ὃ τι ὁ παῖς Ἀγνία προσήκει, τὸ γένος εἰπεῖν. φράσον οὖν τουτοισί.

6 Αἰσθάνεσθε ὅτι οὐκ ἔχει τὴν συγγένειαν εἰπεῖν, ἀλλ' ἀποκρίνεται πάντα μᾶλλον ἢ ὃ δεῖ μαθεῖν ὑμᾶς. καίτοι τόν γε πράττοντά τι δίκαιον οὐ προσῆκεν ἀπορεῖν ἀλλ' εὐθὺς λέγειν, καὶ μὴ μόνον τοῦτο ποιεῖν, ἀλλὰ καὶ διόμνυσθαι καὶ τοῦ γένους παρέχεσθαι μάρτυρας,<sup>3</sup> ἵνα μᾶλλον [ἂν] ἐπιστεύετο ὑφ' ὑμῶν. νῦν δ' ἐφ' οἷς ἀπόκρισιν οὐ δέδωκεν, οὐ μάρτυρας παρέσχετο, οὐχ ὄρκον [84] ὥμοσεν, οὐ νόμον | ἀνέγνωκεν, οἷεται δεῖν ὑμᾶς, ὁμωμοκότας ψηφιεῖσθαι κατὰ τοὺς νόμους, αὐτῷ πειθομένους ἐμοῦ καταγνῶναι ταύτην τὴν εἰς-

<sup>1</sup> ἦ add. Taylor.

<sup>2</sup> προσῆκεν Schoemann: -ήκη.

<sup>3</sup> μάρτυρας Cobet: μαρτυρίας.



## ON THE ESTATE OF HAGNIAS, 4-6

Please take these laws ; and (*to his opponent*) you, come up here, since you are so clever at misrepresentation and at distorting the laws. Read on.

### LAWS

Stop. I wish to question you. Is the child a brother of Hagnias, or a nephew, the son of a brother or sister, or a first cousin, or the child of a first cousin on his mother's or his father's side ? Which of these titles, which are regarded by the law as constituting kinship, does he possess ? And beware of saying that he is *my* nephew ; for it is not a question now of my estate, for I am still alive. If I had died without issue and he were claiming my property, it would be quite fitting that he should give this reply to one who interrogated him. On the present occasion, however, it is the half of Hagnias's estate that you say belongs to the child ; you must, therefore, define the degree of relationship which unites him to Hagnias. Tell these gentlemen, therefore, what it is.

You observe that he cannot define the relationship, but gives any sort of answer rather than the information which you require. Yet one who is acting in good faith ought not to be embarrassed, but ought to be able to answer immediately, and not only so but also swear an oath and produce witnesses about the degree of relationship, so that you might have attached greater credence to what he said. As it is, regarding matters about which he has given no answer, produced no witnesses, sworn no oath and quoted no law, he thinks that you, who have sworn to give your verdict according to the laws, ought to believe him and illegally con-

αγγελίαν παρὰ τοὺς νόμους· οὕτω σχέτλιος καὶ  
7 ἀναιδὴς ἄνθρωπός ἐστιν. ἀλλ' οὐκ ἐγὼ ποιήσω  
τούτων οὐδέν, ἀλλὰ καὶ τὸ γένος ἐρῶ τοῦμὸν καὶ  
ὄθεν μοι προσήκει τῆς κληρονομίας, καὶ τὸν παῖδα  
ἐπιδείξω καὶ τοὺς πρότερον ἀμφισβητήσαντας ἐμοὶ  
τοῦ κλήρου πάντας ἔξω τῆς ἀγχιστείας ὄντας, ὥσθ'  
ὕμᾱς ὁμολογεῖν. ἀνάγκη δ' ἐστὶν ἐξ ἀρχῆς τὰ  
συμβεβηκότα εἰπεῖν· ἐκ τούτων γὰρ γνώσεσθε τὴν  
τε ἐμὴν ἀγχιστείαν καὶ ὅτι τούτοις οὐδέν προσήκει  
τῆς κληρονομίας.

8 Ἐγὼ γὰρ καὶ Ἀγνίας, ὦ ἄνδρες, καὶ Εὐβουλί-  
δης καὶ Στρατοκλῆς καὶ Στρατίος ὁ τῆς Ἀγνίου  
μητρὸς ἀδελφὸς ἐξ ἀνεψιῶν ἐσμεν γεγονότες· καὶ  
γὰρ οἱ πατέρες ἡμῶν ἦσαν ἀνεψιοὶ ἐκ πατρα-  
δέλφων. Ἀγνίας οὖν, ὅτε ἐκπλεῖν παρεσκευάζετο  
πρεσβεύσων ἐπὶ ταύτας τὰς πράξεις αἱ τῇ πόλει  
συμφερόντως εἶχον, οὐκ ἐφ' ἡμῖν τοῖς ἐγγύτατα  
γένους, εἴ τι πάθοι, τὰ ὄντα κατέλιπεν, ἀλλ'  
ἐποίησατο θυγατέρα αὐτοῦ ἀδελφιδῆν· εἰ δέ τι καὶ  
αὕτῃ πάθοι, Γλαύκωνι τὰ ὄντα ἐδίδου, ἀδελφῶ  
ὄντι ὁμομητρίῳ· καὶ ταῦτ' ἐν διαθήκαις ἐνέγραψε.  
9 χρόνων δὲ διαγενομένων μετὰ ταῦτα τελευτᾷ μὲν  
Εὐβουλίδης, τελευτᾷ δ' ἡ θυγάτηρ ἣν ἐποίησατο  
Ἀγνίας, λαμβάνει δὲ τὸν κλῆρον Γλαύκων κατὰ  
τὴν διαθήκην. ἡμεῖς δ' οὐ πώποτ' ἠξιώσαμεν  
ἀμφισβητῆσαι πρὸς τὰς ἐκείνου διαθήκας, ἀλλ'  
ὥόμεθα δεῖν περὶ τῶν αὐτοῦ τὴν ἐκείνου γνώμην  
εἶναι κυρίαν, καὶ τούτοις ἐνεμένομεν. ἡ δ' Εὐ-  
βουλίδου θυγάτηρ μετὰ τῶν αὕτῃ συμπραττόντων  
λαγχάνει τοῦ κλήρου καὶ λαμβάνει νικήσασα τοὺς  
κατὰ τὴν διαθήκην ἀμφισβητήσαντας, ἔξω μὲν

demn me in this criminal suit. This is the wicked and shameless sort of scoundrel that he is. I have no intention of following his example; instead, I shall state my degree of relationship and the basis of my claim to the estate, and I shall prove, in such a manner as to win your assent, that the child and the former claimants against me for the estate are all outside the limits of kinship. I must state the facts from the beginning; for you will thus recognize my claim as next-of-kin and see that my opponent has no title to the succession.

Hagnias, Eubulides, Stratocles, Stratius, the brother of Hagnias's mother, and I, gentlemen, are all the children of cousins, our fathers having been cousins, the children of brothers by the same father. When Hagnias was preparing to set out as ambassador on that mission<sup>a</sup> which had such favourable results for the city, he did not leave his possessions, in case anything happened to him, to us, his nearest relatives, but adopted a niece; and if anything happened to her, he devised his property to Glaucon, his half-brother on his mother's side. These dispositions he embodied in a will. After some interval of time Eubulides died. The daughter whom Hagnias had adopted also died, and Glaucon received the estate in accordance with the will. We never for a moment thought of contesting Hagnias's will, but considered that his intentions regarding his own property ought to be carried into effect, and by these we abode. But the daughter of Eubulides, with the assistance of her confederates, laid claim to the estate and obtained it, having gained an action against those who based their rights on the will. She was outside

<sup>a</sup> See Introduction, p. 382.

- οὔσα τῆς ἀγχιστείας, ἐλπίσασα δ' (ὡς ἔοικεν)  
 ἡμᾶς πρὸς αὐτὴν οὐκ ἀντιδικήσιν, ὅτι οὐδὲ πρὸς  
 10 τὰς διαθήκας ἡμφισβητήσαμεν. ἡμεῖς δέ, ἐγὼ καὶ  
 Στρατίος καὶ Στρατοκλῆς, ἐπειδὴ τοῖς ἐγγύτατα  
 γένους ἐγεγένητο ἐπίδικος ὁ κλῆρος, παρεσκευα-  
 ζόμεθα<sup>1</sup> ἅπαντες λαγχάνειν· πρὶν δὲ γενέσθαι τὰς  
 λήξεις τῶν δικῶν ἡμῖν τελευτᾶ μὲν ὁ Στρατίος,  
 τελευτᾶ δ' ὁ Στρατοκλῆς, λείπομαι δ' ἐγὼ μόνος  
 τῶν<sup>2</sup> πρὸς πατρὸς ὧν ἀνεψιοῦ παῖς, ὧ μόνῳ κατὰ  
 τοὺς νόμους ἐγίγνετο ἡ κληρονομία, πάντων ἤδη  
 τῶν ἄλλων ἐκλελοιπότες, οἱ ταῦτόν ἐμοὶ<sup>3</sup> τῇ  
 11 συγγενείᾳ προσήκοντες ἐτύγγχανον. τῷ δὲ γνώ-  
 σεσθε τοῦθ', ὅτι ἐμοὶ μὲν ἀγχιστεύειν, τοῖς δ' ἐξ  
 ἐκείνων γεγονόσιν οὐκ ἦν, ἐν οἷς οὗτος ὁ παῖς ἦν;  
 αὐτὸς ὁ νόμος δηλώσει. τὸ μὲν γὰρ εἶναι τὴν ἀγχι-  
 στείαν ἀνεψιοῖς πρὸς πατρὸς μέχρι ἀνεψιῶν παίδων  
 ὁμολογεῖται παρὰ πάντων. εἰ δὲ μεθ' ἡμᾶς  
 δίδωσι τοῖς ἡμετέροις παισὶ, τοῦτ' ἤδη σκεπτέον  
 ἐστί. λαβὲ οὖν αὐτοῖς τὸν νόμον καὶ ἀναγίγνωσκε.

NOMOS. Ἐὰν δὲ μηδεὶς ἦ πρὸς πατρὸς μέχρι ἀνε-  
 ψιῶν παίδων, τοὺς πρὸς μητρὸς κυρίου εἶναι κατὰ  
 τὰ αὐτά.

- 12 Ἀκούετε, ὦ ἄνδρες, ὅτι ὁ νομοθέτης οὐκ εἶπεν,  
 εἰ μὴ μηδεὶς ἦ πρὸς πατρὸς μέχρι ἀνεψιῶν παίδων,  
 τοὺς τῶν ἀνεψιαδῶν εἶναι κυρίου, ἀλλὰ ἀπέδωκε

<sup>1</sup> παρεσκευαζόμεθα Reiske: -άζοντο.

<sup>2</sup> τῶν Dobree: τοῦ.

<sup>3</sup> ταῦτόν ἐμοὶ Bekker: ταύτη μοι.

<sup>a</sup> The will having been set aside, the next-of-kin would have to prove his title to the intestate estate.

<sup>b</sup> This is the only law which is quoted in the mss. of Isaeus; it has probably been invented on the basis of the following section.

## ON THE ESTATE OF HAGNIAS, 9-12

the prescribed degree of kinship, but hoped, it seems, that we should not bring an action against her, because we had not contested the will either. But we—that is to say, Stratius, Stratocles, and myself—since the estate had now become adjudicable to the next-of-kin,<sup>a</sup> all prepared to bring a suit. However, before the hearing of the case, Stratius and Stratocles both died ; and thus I am the only surviving relative on the father's side, being the son of a cousin and the only person to whom, according to the law, the estate could pass, all the other relatives having died who possessed the same degree of kinship as myself. But, it may be asked, how are you to know that I possess the rights of a next-of-kin, while the children of the other cousins, including this child, did not possess them ? The law itself will make this clear. It is universally admitted that the rights as next-of-kin belong to cousins on the father's side, including their children, but the point which we have now to examine whether the law grants these rights to our children also. Take, therefore, the law and read it to the court.

LAW.—[If there is no relative on the father's side as far as the degree of the children of cousins, then the right of inheritance passes to the mother's side in the same order of succession.]<sup>b</sup>

Mark you, gentlemen, the legislator did not say that, in default of heirs on the father's side up to the degree of cousin's children, the rights descend to the latter's children ; no, in default of us,<sup>c</sup> he

<sup>c</sup> *i.e.*, on the failure of the children of cousins on the male side.

τοῖς πρὸς μητρὸς τοῦ τελευτήσαντος, ἂν ἡμεῖς μὴ ὤμεν, τὴν κληρονομίαν ἤδη, ἀδελφοῖς καὶ ἀδελφαῖς καὶ παισὶ τοῖς τούτων καὶ τοῖς ἄλλοις, κατὰ ταῦτα<sup>1</sup> καθάπερ καὶ ἐξ ἀρχῆς ἦν ὑπειρημένον· τοὺς δὲ ἡμετέρους παῖδας ἔξω τῆς ἀγχιστείας ἐποίησεν. οἷς δὲ μὴδ' ἐὰν τετελευτηκὼς ἦν ἐγώ,<sup>2</sup> δίδωσιν ὁ νόμος τὴν Ἀγνίου κληρονομίαν, πῶς ἐμοῦ τε ζώντος καὶ κατὰ τοὺς νόμους ἔχοντος οἴονται αὐτοῖς εἶναι τὴν ἀγχιστείαν; οὐδαμῶς δήπουθεν.

- 13 ἀλλὰ μὴν εἰ τούτοις μὴ μέτεστιν, ὧν οἱ πατέρες ταῦτόν ἐμοὶ προσῆκον, οὐδὲ τούτῳ τῷ παιδί γίγνεται· καὶ γὰρ ὁ τούτου πατήρ ὁμοίως ἦν ἐκείνοις συγγενής. οὐκουν δεινὸν ἐμοὶ μὲν διαρρήδην οὕτω τῶν νόμων δεδωκότων τὴν κληρονομίαν, τούτους δ' ἔξω τῆς ἀγχιστείας πεποιηκότων, τολμᾶν τουτονὶ συκοφαντεῖν, καὶ διαγωνίσασθαι μὲν, ἥνίκ' ἐγὼ τοῦ κλήρου τὴν δίκην [85] ἐλάγχανον, | μὴ οἶεσθαι δεῖν, μὴδὲ παρακαταβάλλειν, οὐ περὶ τῶν τοιούτων εἴ τι δίκαιον εἶχεν εἰπεῖν διαγνωσθῆναι προσῆκεν, ἐπὶ δὲ ἔτῳ<sup>3</sup> τοῦ παιδὸς ὀνόματι πράγματ' ἐμοὶ παρέχειν καὶ περὶ
- 14 τῶν μεγίστων εἰς κίνδυνον καθιστάναι; καὶ περὶ μὲν τῶν ὁμολογουμένων εἶναι τοῦ παιδὸς χρημάτων μὴδ' αἰτιᾶσθαι με, μὴδ' ὥς τι εἴληφα ἔχειν εἰπεῖν (ἐφ' οἷς, εἴ τι αὐτῶν κακῶς διώκουν ὥσπερ οὗτος, κρίνεσθαι μοι προσῆκεν), ἃ δ' ὑμεῖς<sup>4</sup> ἐμὰ εἶναι ἐψηφίσασθε, τῷ βουλομένῳ δόντες ἐξουσίαν

<sup>1</sup> ταῦτα Reiske: ταῦτα.

<sup>2</sup> τετελευτηκὼς ἦν ἐγώ Dobree: -ηκότες ὧσιν ὡς ἐγώ.

<sup>3</sup> τῷ add. Schoemann.

<sup>4</sup> ὑμεῖς Aldus: ἡμεῖς.

gives the inheritance to the relatives of the deceased on his mother's side, namely, to brothers and sisters and their children, and so on, in the same order as was laid down before. But he has placed our children outside the right of succession. How, then, can those to whom, even if I were dead, the law does not award Hagnias's estate, imagine that, while I am alive and have a legal right to the property, they themselves can have any title as next-of-kin? Their claim is quite preposterous. Indeed, if the right of succession is not possessed by those whose fathers stood in the same degree of relationship as myself, neither is it possessed by this child; for his father stood in the same degree as they. Is it not, therefore, outrageous, that, whereas the laws have thus explicitly given me the right of inheritance and have placed my opponents outside the requisite degree of kinship, this fellow should dare to play these pettifogging tricks and, at the moment when I was laying claim to the estate, should think fit, not to bring an action against me and pay the necessary deposit—this being the proper moment to have the question settled, if his claims were well-founded—but to annoy me in the name of this child and make me run the most serious risks? His charge is not concerned<sup>a</sup> with money which admittedly belongs to the child, nor can he say that I have received any such money—if I had administered any property in the manner in which he has done, I should deserve to be prosecuted; no, in bringing this kind of suit he has designs upon property which you, after permitting anyone who

<sup>a</sup> Grammatically the whole of this sentence depends on οὐκ οὐν δεινόν (13. 4).



ἀμφισβητεῖν αὐτῶν, ἐπὶ τούτοις ἐμοὶ τοιούτους ἀγῶνας παρασκευάζειν καὶ εἰς τοῦτο ἀναισχυντίας ἦκειν;

- 15 Οἶομαι μὲν οὖν καὶ ἐκ τῶν ἤδη εἰρημένων γιγνώσκεισθαι ὑμῖν ὅτι οὐτ' ἀδικῶ τὸν παῖδα οὐδὲν οὐτ' ἔνοχός εἰμι ταύταις ταῖς αἰτίαις οὐδὲ κατὰ μικρόν· ἔτι δὲ ἀκριβέστερον ἡγοῦμαι καὶ ἐκ τῶν ἄλλων ὑμᾶς μαθήσεσθαι, καὶ τὴν ἐμὴν ἐπιδικασίαν, ὡς γέγονεν, ἀκούσαντας περὶ αὐτῶν. ἐμοὶ γάρ, ὦ ἄνδρες, λαχόντι τοῦ κλήρου τὴν δίκην οὔτε οὗτος ὁ νῦν ἐμέ εἰσαγγέλλων ὤήθη δεῖν παρακαταβάλλειν ὑπὲρ τοῦ παιδός, οὔτε οἱ Στρατίου παῖδες οἱ ταῦτό<sup>1</sup> τῷ παιδί προσήκοντες . . . οὔτε δι' ἄλλο οὐδὲν αὐτοῖς ἐνόμιζον προσήκειν τούτων τῶν
- 16 χρημάτων· ἐπεὶ οὐδ' ἂν οὗτος νῦν ἐμοὶ πράγματα παρείχεν, εἰ τὰ τοῦ παιδός εἶων ἀρπάζειν καὶ μὴ ἡναντιούμην αὐτῷ. οὗτοι μὲν οὖν, ὥσπερ εἶπον, εἰδότες ὅτι ἔξω ἦσαν τῆς ἀγχιστείας, οὐκ ἡμφισβήτουν ἀλλ' ἡσυχίαν εἶχον· οἱ δ' ὑπὲρ τῆς Εὐβουλίδου θυγατρὸς πράττοντες, τῆς τὸ αὐτὸ τῷ παιδί καὶ τοῖς Στρατίου παισὶ<sup>2</sup> προσηκούσης, καὶ οἱ κύριοι τῆς Ἀγνίου μητρὸς ἦσαν οἰοί [τε] πρὸς
- 17 ἐμέ ἀντιδικεῖν. εἰς τοσαύτας δ' ἀπορίας κατέστησαν ὅ τι ἀντιγράφονται περὶ τῆς ἀγχιστείας, ὥστε ἡ μὲν τὸν κλῆρον ἔχουσα καὶ οἱ λέγοντες τὸ περὶ αὐτῆς γένος, ἐπειδὴ κατεψεύσαντο, ῥαδίως ὑπ' ἐμοῦ τότε ἐξηλέγχθησαν οὐκ ἀληθές τι γράφαι τολμήσαντες, οἱ δ' ὑπὲρ τῆς Ἀγνίου μητρὸς γένει

<sup>1</sup> ταῦτό Bekker: τούτω.

<sup>2</sup> τὸ αὐτὸ τῷ παιδί καὶ τοῖς Στρατίου παισὶ Buermann: τὸ αὐτὸ \*\* δικαίως τοῦ Στρατίου παιδί.



wished to dispute my claim to it, assigned by your verdict to me. Such is the extent of his impudence.

From what I have already said I think that you fully recognize that I am doing no wrong to the child and that I am not in the least degree guilty of these charges ; but you will, I think, understand this still more exactly from the rest of my story, and, in particular, when you have heard how the adjudication to me of the inheritance took place. When I brought the action claiming the inheritance, neither did my opponent, who is now bringing an impeachment against me, think fit to make the necessary deposit on behalf of the child, nor did the sons of Stratius, who stand in the same relationship as the child, <either for this><sup>a</sup> or for any other reason think that they had any right to the money ; for my opponent would not be troubling me now, if I had allowed him to dissipate the child's property and had not opposed him. These men, then, as I have said, knowing that they were outside the requisite degree of relationship, kept quiet ; but those who were acting on behalf of the daughter of Eubulides, who stands in the same degree of relationship as the child and the sons of Stratius, and the legal representatives of Hagnias's mother, were disposed to contest my claim. They found it so difficult to know what to say in their written counter-claim about the degree of relationship, that the woman who was in possession of the estate and those who were seeking to explain her kinship, when they lied, were easily convicted by me of daring to put in writing what was not true ; and those who were supporting Hagnias's mother, who

<sup>a</sup> There is a lacuna in the text at this point.

· μὲν ἐμοὶ ταῦτὸ προσηκούσης (ἀδελφὴ γὰρ ἦν τοῦ Στρατίου) νόμῳ δὲ ἀποκλειομένης, ὃς κελεύει κρατεῖν τοὺς ἄρρενας, τοῦτο μὲν εἶασαν, οἴομενοι δ' ἐμοῦ πλεονεκτῆσειν μητέρα εἶναι τοῦ τελευτήσαντος ἔγραψαν· ὃ συγγενέστατον μὲν ἦν τῇ φύσει πάντων, ἐν δὲ ταῖς ἀγχιστείαις ὁμολογουμένως  
 18 οὐκ ἔστιν. εἶτα γράψας ἀνεψιοῦ παῖς<sup>1</sup> εἶναι κακέϊνας ἐξελέγξας<sup>2</sup> οὐκ οὔσας ἐν ταῖς ἀγχιστείαις, οὕτως ἐπιδικασάμην παρ' ὑμῖν, καὶ αὐτῶν οὐκ ἴσχυσέ τι<sup>3</sup> οὔτε τῇ τὸν κλῆρον ἐχούσῃ τὸ προ-  
 νενικηκέναι τοὺς κατὰ διαθήκην ἀμφισβητήσαντας, οὔτε τῇ ἑτέρα τὸ μητέρα εἶναι τοῦ τὸν κλῆρον καταλιπόντος, ἀλλ' οὕτως οἱ τότε δικάζοντες καὶ τὸ δίκαιον καὶ τοὺς ὅρκους περὶ πολλοῦ ἐποιήσαντο, ὥστ' ἐμοὶ τῷ κατὰ τοὺς νόμους ἀμφισβητοῦντι  
 19 τὴν ψῆφον ἤνεγκαν. καίτοι εἰ τὰς μὲν νενίκηκα τοῦτον τὸν τρόπον, ἐπιδείξας μηδὲν Ἀγνίᾳ κατ' ἀγχιστείαν προσηκούσας, οὗτος δὲ μὴ ἐτόλμησεν ἀντιδικῆσαι τῷ παιδὶ τοῦ ἡμικληρίου πρὸς ἡμᾶς,<sup>4</sup> οἱ δὲ Στρατίου παῖδες οἱ ταῦτὸν τούτῳ προσ-  
 ἤκοντες μηδὲ νῦν ἀξιούσιν ἀντιδικῆσαι πρὸς ἐμέ περὶ αὐτῶν, ἔχω δ' ἐγὼ τὸν κλῆρον ἐπιδικασά-  
 μενος παρ' ὑμῖν, ἐξελέγχω δὲ τοῦτον μηδέπω καὶ τήμερον ἔχοντ' εἰπεῖν ὃ τι ὁ παῖς Ἀγνίᾳ προσ-  
 ἤκει κατ' ἀγχιστείαν, τί ἔτι δεῖ μαθεῖν ὑμᾶς ἢ <τί><sup>5</sup> ποθεῖτε ἀκοῦσαι περὶ τούτων; ἐγὼ

<sup>1</sup> παῖς Emper: παῖδας.

<sup>3</sup> τι Reiske: τις.

<sup>2</sup> ἐξελέγξας Reiske: ἐξελέγεα.

<sup>4</sup> ἡμᾶς Reiske: ὑμᾶς.

<sup>5</sup> τί add. Reiske.

stands in the same degree of relationship as I do (being sister of Stratius) but who is excluded by the law which ordains that the males shall have the preference, omitted all reference to this point, and, thinking to gain an advantage over me, described her as the mother of the deceased—the nearest possible relationship by blood, but admittedly conferring no rights as next-of-kin. Having thus described myself as the son of a cousin and having proved that these women were not within the requisite degree of kinship, I thus had the estate adjudicated to me by you ; and her former success against those who claimed on the basis of the will was of no avail to the woman who was in possession of the inheritance, nor did it avail the other woman that she was mother of the deceased who left the estate, but those who were trying the case attached so much importance to justice and their oaths that they gave their verdict in favour of me, whose claim was in conformity with the law. Yet since I thus triumphed over these women by proving that they were not within the requisite degree of kinship to Hagnias ; and since my present opponent did not venture to go to law with me, claiming half the estate for the child ; and since the sons of Stratius, who stand in the same degree of kinship as this child, do not even now think of bringing a suit against me for the estate ; and since I am in possession of the estate by your adjudication ; and since I can prove that my opponent even at the present time cannot state what relationship the child possesses which confers rights as next-of-kin to Hagnias—what further information do you require, and what more do you wish to hear on the subject ? Since I

μὲν γὰρ ὥς εὖ φρονοῦσιν ὑμῖν ἱκανὰ τὰ εἰρημένα νομίζω.

20 Οὗτος τοίνυν ῥαδίως ὃ τι ἂν τύχῃ ψευδόμενος, καὶ τὴν αὐτοῦ πονηρίαν οὐδεμίαν ζημίαν εἶναι νομίζων, τολμᾷ με διαβάλλειν ἄλλα τε πολλά, περὶ ὧν ποιήσομαι τοὺς λόγους τάχα, καὶ νυνὶ λέγει ὥς ἐκοινωσάμεθα ἐγὼ τε καὶ Στρατοκλῆς, τὸν ἀγῶνα εἰσιέναι περὶ τοῦ κλήρου μέλλοντες. ὁ μόνοις ἡμῖν τῶν ἀμφισβητεῖν παρεσκευασμένων

21 οὐκ ἐνῆν, διομολογήσασθαι πρὸς ἀλλήλους. τῇ μὲν γὰρ Εὐβουλίδου θυγατρὶ καὶ τῇ Ἀγνίου μητρὶ πρὸς ἡμᾶς ἀγωνιζομέναις, μὴ κατὰ ταῦτὸ ἀμφισβητούσαις, ἐνῆν ποιήσασθαι συνθήκας, ἂν ἢ ἑτέρα νικᾷ, μετεῖναί τι καὶ τῇ ἡττηθείσῃ· καδίσκος

[86] γὰρ ἔμελλεν | ἐκατέρᾳ τεθήσεσθαι. τὸ δ' ἡμέτερον οὐ τοιοῦτον ἦν, ἀλλ' ἐν τῷ γένος, δύο δὲ λήξεις, ἡμικληρίου ἐκατέρῳ· τοῖς δὲ κατὰ ταῦτὰ ἀμφισβητοῦσιν εἰς τίθεται καδίσκος, οὗ οὐκ ἂν ἦν τὸν μὲν ἡττᾶσθαι τὸν δὲ νικᾶν,<sup>1</sup> ἀλλ' ὁμοίως ἀμφοτέροις ἦν ὁ αὐτὸς κίνδυνος, ὥστ' οὐκ ἐνῆν κοινωνίαν οὐδὲ διομολογίαν ποιήσασθαι περὶ αὐτῶν.

22 ἀλλ' οὗτος, ἐπειδὴ Στρατοκλῆς ἐτελεύτησε πρὶν γενέσθαι τοῦ ἡμικληρίου τὰς λήξεις ἡμῶν ἐκατέρῳ, καὶ οὐκέτ' ἦν μετουσία τῷ Στρατοκλεῖ τούτων οὐδὲ τῷ παιδὶ τῷδε διὰ τὸν νόμον, ἀλλ' ἐγίγνετο εἰς ἐμὲ ἡ κληρονομία κατ' ἀγχιστείαν πάντων, εἰ νικήσαιμι τοὺς ἔχοντας, τότε ἤδη πλάττει ταῦτα

<sup>1</sup> ἡττᾶσθαι τὸν δὲ νικᾶν Valckenaer: νικᾶσθαι τὸν δὲ ἡττᾶν.

regard you as men of good sense, I think that what I have said is sufficient.

My opponent, thinking nothing of telling any lie whatever and considering that his own rascality does him no harm, dares to utter many calumnies against me, with which I will deal presently. In particular, he now alleges that Stratocles and I made a compact, when we were about to engage in the suit about the inheritance, though of those who had prepared to put in a claim we were the only persons for whom such a mutual agreement was impossible. The daughter of Eubulides and the mother of Hagnias, in an action against me, since they were not claiming on the same grounds, might have made an agreement, that if one of them were successful, she should give a share to the defeated claimant; for the votes accorded to each of them would be placed in different urns. But with us it was quite otherwise; we stood in the same relationship and were making two separate claims, each to have half the estate; and when two claimants found their claims on the same grounds, only one voting urn is employed, so that it would be impossible for one to be unsuccessful and the other successful, but we both ran the same risk, so we could not possibly have made any compact or agreement about the inheritance. But when Stratocles died before the actions claiming half the estate, which we were each bringing, could come on, and so there was no further question of his participating in the estate, nor had this child of his any title owing to the law, but the whole inheritance devolved upon me as next-of-kin, if I could defeat those who are now in possession, then and not till then does my

καὶ μηχανᾶται, προσδοκῶν τούτοις τοῖς λόγοις  
 ῥαδίως ὑμᾶς ἐξαπατῆσαι. ὅτι δ' οὐχ οἷόν τ' ἦν  
 τούτων γίγνεσθαι οὐδέν, ἀλλὰ διείρηται<sup>1</sup> καθ'  
 ἕκαστον περὶ αὐτῶν, ἐκ τοῦ νόμου γνῶναι ῥάδιον.  
 λαβὲ δ' αὐτοῖς καὶ ἀναγίγνωσκε.

## ΝΟΜΟΣ

- 23 Ἄρ' ὑμῖν ὁ νόμος δοκεῖ ποιεῖν ἐξουσίαν κοινω-  
 νίας, ἀλλ' οὐκ ἄντικρυς οὕτωςι πᾶν τούναντίον, εἰ  
 καὶ τὸ πρότερον ὑπῆρχε κοινωνία, προστάττει,  
 διαρρήδην κελεύων τοῦ μέρους ἕκαστον λαγχάνειν  
 καὶ τοῖς κατὰ ταῦτὸ ἀμφισβητοῦσι τιθεὶς ἕνα  
 καδίσκον καὶ τὰς ἐπιδικασίας τοῦτον τὸν τρόπον  
 ποιῶν; ὁ δέ, ταῦτα τῶν νόμων λεγόντων καὶ οὐκ  
 ἐνούσης γενέσθαι διομολογίας, οὕτως ἀλόγως  
 24 πρᾶγμα τηλικούτον ψεύσασθαι τετόλμηκεν. οὐ  
 μόνον δὲ τοῦτο πεποίηκεν, ἀλλὰ καὶ τὸ πάντων  
 ἐναντιώτατον πρᾶγμα εἴρηκεν, ᾧ προσέχετε τὸν  
 νοῦν, ᾧ ἄνδρες. φησὶ γὰρ ὁμολογήσαί με τοῦ  
 κλήρου τῷ παιδὶ τὸ ἡμικλήριον μεταδώσειν, εἰ  
 νικήσαιμι τοὺς ἔχοντας αὐτόν. καίτοι εἰ μὲν τι  
 καὶ αὐτῷ μετῆν κατὰ τὸ γένος, ὥς οὗτος λέγει, τί  
 ἔδει γενέσθαι ταύτην αὐτοῖς παρ' ἐμοῦ τὴν ὁμο-  
 λογίαν; ἦν γὰρ ὁμοίως καὶ τούτοις ἐπίδικον τὸ  
 25 ἡμικλήριον, εἴ περ ἀληθῆ λέγουσιν. εἰ δὲ μὴ  
 προσῆκεν αὐτοῖς τῆς ἀγχιστείας μηδέν, διὰ τί ἂν  
 μεταδώσειν ὡμολόγουν, τῶν νόμων ἐμοὶ πάντων  
 αὐτῶν δεδωκότων τὴν κληρονομίαν; πότερα δ'

<sup>1</sup> διείρηται Reiske: διήρηται.

opponent devise and invent these fictions, expecting easily to mislead you by these stories. That no such compact was possible but that all the details of procedure are already provided for, can easily be seen from the law. Please take and read it to the court.

## LAW

Does it appear to you that the law gives any liberty for a concerted arrangement? Or are not its provisions in an exactly contrary sense, since, even if a previous arrangement existed, it expressly ordains that each party shall bring an action for his own share, and prescribes a single voting-urn, when the two parties base their claims on the same ground, and makes this the system of adjudication? But my opponent, in spite of these legal provisions and the impossibility of a preconcerted arrangement, has had the impudence to invent this lie against all common sense. But he has not stopped there; he has also invented the most inconsistent story possible, to which, gentlemen, please give your close attention. He declares that I agreed, if I won my case against the present possessors of the estate, to give the child a half-share of the inheritance. Yet if the child had any right to a share in virtue of his relationship, as my opponent declares, what need was there for this agreement between me and them? For the half of the estate was adjudicable to them just as much as to me, if what they say is true. If, on the other hand, they had no claim by right of kinship, why should I have agreed to give them a share, when the laws have given me the right of succession to the whole estate? Was it then



- οὐκ ἦν μοι λαχεῖν, εἰ μὴ πείσαιμι τούτους; ἀλλ' ὁ νόμος τῷ βουλομένῳ δίδωσι τὴν ἐξουσίαν, ὥστε τοῦτο οὐκ ἦν αὐτοῖς εἰπεῖν. ἀλλ' εἰχόν τινά μοι μαρτυρίαν τοῦ πράγματος, ἣν εἰ μὴ ἐμαρτύρουν, οὐκ ἔμελλον ἐπιδικάσασθαι τούτων; ἀλλὰ κατὰ γένος ἡμφισβήτουν, οὐ κατὰ δόσιν, ὥστ' οὐδὲν  
26 ἔδει μαρτύρων. ἀλλὰ μὴν εἰ μήτε κοινώσασθαι τὸ πρᾶγμα ἐνῆν, ὅτ' ἔζη Στρατοκλῆς, μήτε ὁ πατὴρ αὐτῷ κατέλιπεν ἐπιδικασάμενος τούτων μηδέν,<sup>1</sup> μήτε εἰκὸς ἦν μεταδώσειν ἐμὲ τὸ ἡμικλήριον ὁμολογήσαι αὐτῷ, ἀπέδοτε<sup>2</sup> <δ'><sup>3</sup> ὑμεῖς ἐπιδικάσαντές μοι τοῦτον τὸν κλῆρον, οἱ<sup>4</sup> δὲ μήτε ἔλαχον τότε<sup>5</sup> αὐτῶν μήτ' ἀμφισβητῆσαι πώποτ' ἠξίωσαν, πῶς χρὴ πιστοὺς εἶναι νομίζειν τοὺς τούτων λόγους; ἐγὼ μὲν οἶομαι οὐδαμῶς.
- 27 Προσποιεῖται τοίνυν οὗτος (ἐπειδὴ τοῦτ' εἰκότως ἂν θαυμάζοιτε, ὅτι τοῦ ἡμικληρίου τότε τὴν δίκην οὐκ ἐλάγχανον) τοῦ μὲν μὴ λαχεῖν πρὸς ἐκείνους ἐμὲ εἶναι αἴτιον ὡς ὁμολογήσαντα μεταδώσειν, ὥστε διὰ τοῦτ' οὐ<sup>6</sup> παρακαταβάλλειν αὐτούς,<sup>7</sup> τῆς δὲ πρὸς ἐμὲ λήξεως ἐμποδὼν εἶναι τοὺς νόμους (οὐ γὰρ εἶναι τοῖς ὀρφανοῖς κατὰ τῶν ἐπιτρόπων),  
28 οὐδέτερ' ἀληθῆ λέγων. οὕτε γὰρ ἂν νόμον δείξειεν ὃς κωλύει τοῦτον ὑπὲρ τοῦ παιδὸς δίκην παρ' ἐμοῦ λαμβάνειν· οὐ γάρ ἐστιν ἐναντιούμενος οὐδεὶς, ἀλλ' ὥσπερ καὶ γραφὰς κατ' ἐμοῦ δέδωκεν, οὕτω

<sup>1</sup> μηδέν Bekker: οὐδέν.      <sup>2</sup> ἀπέδοτε Schoemann: ἀπόδοτε.

<sup>3</sup> δ' add. Schoemann.

<sup>4</sup> οἱ Schoemann: εἰ.

<sup>5</sup> τότε Münscher: τῶν.

<sup>6</sup> τοῦτ' οὐ Reiske: τούτου.

<sup>7</sup> αὐτούς Dobree: αὐτοῖς.



impossible for me to make my claim without their consent? But the law gives full liberty to anyone who likes to make a claim, so that they could not possibly make this allegation. Did I then require some evidence from them material to my case, in default of which I was unlikely to secure the adjudication of the estate? No, I was claiming by right of kinship, not of testamentary disposition, so that I had no need of witnesses. And indeed, if it was impossible for me to have made an arrangement with Stratocles in his lifetime; if his father did not bequeath the estate to him, since he never had any of it adjudicated to him; if it was unlikely that I should have agreed to give the child half the inheritance; and since you awarded me the estate by your adjudication and my opponents brought no action at the time and have never yet thought of disputing the estate—how can you believe their allegations to be true? In my opinion you cannot possibly do so.

Seeing that you might reasonably be astonished that they did not at the time bring a suit claiming half the estate, my opponent pretends that I was the cause of their not bringing a suit against the other parties, because I had agreed to give them a share and so they did not make the necessary deposit, while they allege that the laws forbade them to bring a suit against me on the ground that orphans may not bring actions against their guardians. Both these statements are untrue. For my opponent could not point to any law which forbids him to bring a private action against me on behalf of the child; for no law exists which is opposed to such a proceeding, but, just as the law has granted the

καὶ δίκας ἐμοὶ εἶναι καὶ τῷ παιδὶ πεποίηκεν· οὐτ'  
 αὖ διὰ ταῦτα ἐκείνοις τοῖς ἔχουσι<sup>1</sup> τοῦ κλήρου οὐκ  
 ἐλάγχανον, ὡς ἐμοῦ μεταδώσειν ὁμολογήσαντος,  
 ἀλλ' ὅτι οὐδ' ὅτιοῦν αὐτοῖς τούτων τῶν χρημάτων  
 29 προσῆκεν. εὖ δ' οἶδ' ὅτι <οὐδ' ><sup>2</sup> εἰ συνεχώρουν  
 τῷ παιδὶ λαβεῖν ἐπιδικασαμένῳ παρ' ἐμοῦ τὸ ἡμι-  
 κλήριον, οὐκ ἂν ποτε ταῦτ' ἐποίησαν οὐδ' ἐπεχείρη-  
 σαν, εἰδότες <ὅτι>,<sup>3</sup> ὁπότ' ἐν τῇ ἀγχιστεία μὴ  
 ὄντες εἶχόν τι τῶν μὴ προσηκόντων, τοῦτ' ἂν ὑπὸ  
 τῶν ἐγγύτατα γένους ῥαδίως ἀφηρέθησαν. ὅπερ  
 γὰρ καὶ πρότερον εἶπον, οὐ δίδωσι μεθ' ἡμᾶς τοῖς  
 [87] ἡμετέροις παισὶ τὸ παράπαν τὴν ἀγχιστείαν | ὁ  
 νόμος, ἀλλὰ τοῖς πρὸς μητρὸς τοῦ τελευτήσαντος.  
 30 ἦκεν ἂν οὖν ἐπ' αὐτὰ τοῦτο μὲν ὁ Γλαῦκων ὁ τοῦ  
 Ἀγνίου ἀδελφός, πρὸς ὃν μὴ ὅτι γένος εἶχον  
 ἄμεινον εἰπεῖν, ἀλλὰ καὶ ἔξω τῆς ἀγχιστείας  
 ἐφαίνοντ' ἂν ὄντες, τοῦτο δ', εἰ μὴ ἐβούλετο οὗτος,  
 ἢ Ἀγνίου κακείνου μήτηρ, προσῆκον καὶ αὐτῇ  
 τῆς ἀγχιστείας τοῦ αὐτῆς υἱός, ὥσθ' ὁπότ'  
 ἡγωνίζετο πρὸς τοὺς μηδὲν γένει προσήκοντας,  
 φανερώς ἂν ἔλαβε τὸ ἡμικλήριον παρ' ὑμῶν, τοῦτο  
 τοῦ δικαίου καὶ τῶν νόμων αὐτῇ δεδωκότων.  
 31 οὐκοῦν διὰ ταῦτ' οὐκ ἐλάγχχανεν, οὐχ ὡς δι' ἐμέ  
 ἢ τοὺς νόμους κωλυόμενος, ἀλλὰ ταύτας [τὰς]

<sup>1</sup> ἔχουσι Dobree: προσήκουσι.

<sup>2</sup> οὐδ' add. Scaliger.

<sup>3</sup> ὅτι add. Stephanus.

<sup>a</sup> Not as his mother but as her son's cousin; see Stemma, p. 383.

right to bring a public indictment against me, so it has created the opportunity either for me or the child to bring a private suit. Again, it was not because I agreed to give them a share that they failed to bring an action against the other parties who were in possession of the estate, but because they had absolutely no right to this money. I am convinced that even had I agreed to let the child receive from me by the adjudication of the court a half of the inheritance, they would never have carried out this bargain or attempted to do so ; they know perfectly well, that if, being outside the requisite degree of kinship, they had been in possession of anything which did not belong to them, they would have been easily deprived of it by the next-of-kin. For, as I said before, the law does not give any rights at all as next-of-kin to our children after us, but transfers them to the relatives of the deceased on his mother's side. In the first place, then, Glaucon, the brother of Hagnias, would have come forward, against whom they could not urge a claim of closer relationship ; on the contrary, they would have been clearly shown to be outside the requisite degree of kinship. Next, if Glaucon had been unwilling to come forward, the mother of Hagnias and Glaucon would have done so, since she possessed a claim of kinship to her son,<sup>a</sup> and so, if she had engaged in a suit against those who possessed no title as next-of-kin, she would clearly have been awarded half the estate by you, since justice and the laws have given her a right to it. These, then, are the reasons why he did not bring an action, and it was not because he was prevented from doing so by me or by the laws ; and these are the pretexts which

προφάσεις ποιούμενος ἐπὶ ταύτας τὰς συκοφαντίας ἐλήλυθεν, ἐξ ὧν γραφὴν γραψάμενος καὶ ἐμὲ διαβάλλων ἐλπίζει χρήματα λήψεσθαι καὶ ἐμὲ τῆς ἐπιτροπῆς ἀπαλλάξειν. καὶ οἶται δεινοῦ τινος ἀνδρὸς ἔργον διαπράττεσθαι ταύταις ταῖς παρασκευαῖς, ὅτι μὴ κατορθώσας μὲν οὐδὲν ἀπολεῖ τῶν αὐτοῦ, διαπραξάμενος δ' ἃ βούλεται καὶ τὰ τοῦ παιδὸς ἀδεῶς ἤδη διαφορήσει.

- 32 Οὐκοῦν οὐ δεῖ προσέχειν ὑμᾶς τοῖς τούτου λόγοις τὸν νοῦν, οὐδ' ἐπιτρέπειν, οὐδ' ἐθίζειν εἶναι γραφὰς περὶ ὧν ἰδίας δίκας οἱ νόμοι πεποιήκασιν. ἀπλᾶ γὰρ τὰ δίκαια παντάπασιν ἐστι καὶ γνώριμα μαθεῖν· ἃ ἐγὼ διὰ βραχέων εἰπὼν καὶ παρακαταθέμενος ὑμῖν μνημονεύειν, ἐπὶ τὴν ἄλλην ἀπολογίαν
- 33 ἤδη τρέφομαι τῶν κατηγορηθέντων. τί οὖν ἔστι ταῦτα, καὶ τί διορίζομαι; εἰ μὲν κατ' ἀγχιστείαν τῶν Ἀγνίου μετεῖναί φησι τῷ παιδί, τοῦ ἡμικληρίου λαχέτω πρὸς τὸν ἄρχοντα, καὶ ὑμεῖς ψηφίσθηθε, λαβέτω· ταῦτα γὰρ οἱ νόμοι κελεύουσιν. εἰ δὲ μὴ κατὰ τοῦτο ἀμφισβητεῖ, φησὶ δὲ ὁμολογήσαί με τῷ παιδί μεταδώσειν, φάσκοντος ἐμοῦ τούτων εἶναι μηδέν, δικασάσθω, καὶ ἐξελέγξῃ με ὡς ὁμολόγησα, τότε ἤδη πραξάσθω· δίκαιον γὰρ οὕτως
- 34 ἐστίν. εἰ δὲ μήτε πρὸς ἐμὲ μήτε κατ' ἐμοῦ δίκην εἶναί φησι τῷ παιδί, τὸν κωλύοντα νόμον εἰπάτω,

<sup>a</sup> An action claiming property was described as πρὸς τινα, an action for breach of contract as κατὰ τινος.

he has invented for resorting to these vexatious proceedings against me, and it is upon the basis of them, that having brought a public indictment against me and slandering me, he hopes to obtain money and to deprive me of my guardianship. He thinks that he is managing very cleverly in employing these devices, because, if he is unsuccessful, he will lose nothing of his own, whereas, if he can carry out his wishes, he will henceforward be able to squander the child's property as well with impunity.

You must, therefore, not listen to his arguments nor tolerate his utterance of them, nor allow the custom to grow up of bringing public actions about matters for which the laws have prescribed private suits. For the rights of the case are perfectly simple and easy to understand. After dealing briefly with them and leaving them stored in your memory, I will then turn to the rest of my defence against the charges brought against me. What then are the rights of the case and how do I define them? If my opponent declares that part of Hagnias's estate belongs to the child by right of kinship, let him bring an action before the archon claiming the half, and, if you decide in his favour, let him take it; for thus the laws ordain. But if he does not claim on these grounds but alleges that I agreed to give the child a share—though I declare that there is not a word of truth in his allegation—let him bring an action, and, if he can prove that I made such an agreement, let him secure the execution of it; for that is only right. But if he declares that the child cannot either claim a share from me at law or sue me for breach of contract,<sup>a</sup> let him name the

- κὰν ἔχη δεῖξαι, λαβέτω καὶ οὕτω τὸ μέρος τῶν χρημάτων. εἰ δ' αὖ μήτ' ἐπιδικάσασθαι φησι δεῖν τοῦ ἡμικληρίου μήτ' ἐμοὶ<sup>1</sup> δικάσασθαι, ἀλλ' ἤδη εἶναι ταῦτα τοῦ παιδός, ἀπογραφάσθω πρὸς τὸν ἄρχοντα εἰς τὴν μίσθωσιν τῶν ἐκείνου χρημάτων, ἣν ὁ μισθωσάμενος εἰσπράξει με ταῦτα ὥς ὄντα
- 35 τοῦ παιδός. ταῦτα μεγάλα δίκαιά ἐστι. ταῦτα καὶ οἱ νόμοι κελεύουσιν, οὐ μὰ Δία οὐ γραφὰς ἐμὲ φεύγειν περὶ ὧν δίκας ἰδίας εἶναι πεποιθήκασιν, οὐδὲ κινδυνεύειν περὶ τοῦ σώματος, ὅτι οὐ μεταδίδωμι τῷ παιδὶ τούτων, ἃ ψήφω κρατήσας ἐγὼ τοὺς ἔχοντας οὕτω παρ' ὑμῶν ἔλαβον· ἀλλ' εἴ τι τῶν ὁμολογουμένων εἶναι τοῦ παιδός εἶχον καὶ κακῶς διέθηκα ὥστ' ἐκείνον κακοῦσθαι, τότε ἂν μοι κατὰ ταύτην προσῆκε κρίνεσθαι τὴν γραφήν, οὐ μὰ Δί' οὐκ ἐπὶ τοῖς ἐμοῖς.
- 36 Ὅτι μὲν οὖν οὔτε περὶ τούτων οὐδὲν δίκαιον πεποίηκεν οὔτε περὶ τῶν ἄλλων ἀληθὲς οὐδὲν εἴρηκεν, ἅπαντα δὲ δεινῶς πλεονεξία μεμηχάνηται διαβάλλων καὶ τοὺς νόμους παράγων καὶ ὑμῶν καὶ ἐμοῦ παρὰ τὸ δίκαιον περιγενέσθαι ζητῶν, οἶμαι μὰ τοὺς θεοὺς οὐδ' ὑμᾶς ἀγνοεῖν ἀλλ' ὁμοίως εἰδέναι πάντας, ὥστ' οὐκ οἶδ' ὅ τι δεῖ πλείω περὶ τούτων λέγειν.
- 37 Ὅρῳ δέ, ὦ ἄνδρες, τὴν πλείστην διατριβὴν τῶν λόγων ποιούμενον περὶ τὴν τοῦ παιδός οὐσίαν καὶ περὶ τὴν ἐμήν, καὶ τὰ μὲν ἐκείνου παντάπασιν ὥς

<sup>1</sup> μήτ' ἐμοὶ Blass: μήτε μὴ.

law which prohibits this, and, if he can indicate it, let the child in these circumstances, too, receive the share of the estate. If, again, he contends that there is no need to have the half-share adjudicated or to go to law with me at all, but that this share already belongs to the child, let him make an application to the archon for its inclusion in the lease of the orphan's estate and let the lessee exact from me this portion as belonging to the child. Such are the essential rights of the case, and such the provisions of the laws, which do not, thank heaven, oblige me to submit to criminal trials in matters about which they have instituted private suits nor to run any personal risk because I refuse to share with the child this estate, which I received by your verdict when I won my case against those who were in possession. If I were holding any property which admittedly belonged to the child and had maladministered it to his detriment, then he would be justified in bringing this criminal charge against me, but not, by heaven, when it is a question of my own property.

That my adversary has in this matter acted entirely unjustly, and that otherwise he has never spoken a word of truth, but has cleverly devised the whole plot from motives of self-interest, uttering calumnies, misinterpreting the laws and seeking to get the better both of you and of me contrary to justice—of all this, by heaven, you are, I think, well aware and all alike understand; and so I do not know what more I need say.

I notice, gentlemen, that most of his speech is taken up with a discussion of my fortune and of that of the child; he represents the circumstances

- ἄπορα διεξιόντα,<sup>1</sup> περὶ δ' ἐμὲ πλοῦτόν τινα τῷ λόγῳ κατασκευάσαντα, καὶ τινα κακίαν κατηγοροῦντα<sup>2</sup> ὡς ἐγὼ τεττάρων οὐσῶν Στρατοκλέους θυγατέρων οὐδεμιᾷ τολμῶ συνευπορηῆσαι προικός, καὶ ταῦτ' ἔχων (ὡς οὗτός φησι) τὰ τοῦ παιδίου.
- 38 βούλομαι δὴ καὶ περὶ τούτων εἰπεῖν· ἐλπίζει γὰρ διὰ τῶν λόγων ἐμοὶ μὲν τινα φθόνον γενήσεσθαι παρ' ὑμῶν περὶ τῶν προσγεγεννημένων χρημάτων, τοῖς δὲ παισὶν ἔλεον, ἂν ἄποροι παρ' ὑμῖν εἶναι δόξωσιν. οὐκ οὐνοῦμαι ἀγνοῆσαι δεῖ περὶ αὐτῶν ὑμᾶς οὐδέν, ἀλλ' ἀκριβῶς καὶ ταῦτα μαθεῖν, ἵν' εἰδῇθ'
- [88] ὅτι ψεύδεται, ὥσπερ καὶ περὶ τῶν ἄλλων | ἀπάντων. ἐγὼ γάρ, ὦ ἄνδρες, πάντων <ἂν><sup>3</sup> ὁμολογῶσαιμι εἶναι κάκιστος, εἰ Στρατοκλέους ἄπορα τὰ πράγματα καταλιπόντος αὐτὸς εὐπορος ὢν [καὶ] μηδεμίαν ἐπιμέλειαν ποιούμενος φαινοίμην τῶν
- 39 ἐκείνου παίδων. εἰ δὲ πλείονα κατέλιπεν αὐτοῖς τὰ ὄντα τῶν ἐμῶν καὶ βεβαιότερα, καὶ ταῦτα τοσαῦτ' ἐστὶν ὥστε καὶ τὰς θυγατέρας ἐξ αὐτῶν διαθεῖναι καλῶς καὶ τὸν παῖδα ἐκ τῶν λοιπῶν μηδὲν ἡττον εἶναι πλούσιον, ἐπιμελοῦμαι τε τοῦτον τὸν τρόπον αὐτῶν ὥστε καὶ πολλῶ πλείω γενέσθαι τὴν οὐσίαν, εἰκότως μὲν οὐκ ἂν ἔχοιμι μέμψιν, εἰ μὴ τὰμαυτοῦ προστίθηναι τούτοις, σώζων δὲ τὰ τούτων καὶ πλείω ποιῶν δικαίως ἂν ἐπαινοίμην. ὅτι δὲ ταῦτα οὕτως ἔχει, ῥαδίως ἐπι-
- 40 δείξω. πρῶτον μὲν οὖν τὰ τῆς οὐσίας διεξέειμι, μετὰ δὲ ταῦτα ὡς καὶ διοικεῖν ἀξιῶ τὰ τοῦ παιδός.
- Στρατοκλεῖ γὰρ κάμοι τὰ μὲν ὑπάρξαντα πατρῶα

<sup>1</sup> διεξιόντα Aldus: -ντος.

<sup>2</sup> κατηγοροῦντα Stephanus: -ντος.

<sup>3</sup> ἂν add. Schoemann.



of the child as embarrassed, while he attributes to me a position of wealth and accuses me of baseness on the ground that I cannot bring myself to provide any of the four daughters of Stratocles with a dowry, although, according to his account, I am in possession of the child's property. I should like to deal with this point; for he hopes by his arguments to arouse in your minds a prejudice against me regarding the fortune which has accrued to me, and a feeling of pity in favour of the children, if they can be represented to you as reduced to poverty. You must not, therefore, be left in any ignorance on these points but must have an exact idea of them, so that you may understand that here, too, my opponent is lying, as he has lied about everything else. For, gentlemen, I would admit myself to be the basest of all men, if it could be shown that the affairs of Stratocles were left in a state of embarrassment at his death and that I, being myself in easy circumstances, gave not a thought to his children. But if he left them a fortune more considerable and better secured than my own and sufficient to endow his daughters fittingly without sensibly diminishing his son's wealth, and if I am so managing the property as greatly to increase it, surely I cannot reasonably be blamed for not giving them my own money as well; I rather deserve to be praised for preserving and increasing their fortune. That these statements are true, I shall easily prove to you. First, therefore, I will give you details about the property, and after that state the principles on which I think fit to administer the children's affairs.<sup>a</sup>

Stratocles and I had a patrimony sufficient to

<sup>a</sup> This part of the speech is lost.

- τοσαῦτα ἦν, ὥστε εἶναι μὲν [οὐχ] ἱκανά, λητουργεῖν δὲ μὴ ἄξια. τεκμήριον δέ· εἴκοσι μνᾶς ἐκάτερος ἡμῶν ἐπὶ τῇ γυναικὶ προῖκα ἔλαβε, τοσαύτη δὲ προῖξ οὐκ ἂν εἰς πολλήν τινα οὐσίαν
- 41 δοθείη. συνέβη δὲ Στρατοκλεῖ πρὸς τοῖς ὑπάρχουσι πλέον ἢ πένθ' ἡμιταλάντων οὐσίαν λαβεῖν. Θεοφῶν<sup>1</sup> γὰρ ὁ τῆς γυναικὸς αὐτοῦ ἀδελφὸς ἀποθνήσκων ἐποιήσατο τῶν θυγατέρων αὐτοῦ μίαν, καὶ τὰ ὄνθ'<sup>2</sup> αὐτοῦ ἔδωκεν, ἄγρον τὸν Ἐλευσῖνι δυοῖν ταλάντοις, πρόβατα ἐξήκοντα, αἶγας ἑκατόν, ἔπιπλα, ἵππον λαμπρὸν ἐφ' οὗ ἐφυλάρχησε, καὶ
- 42 τὴν ἄλλην κατασκευὴν ἅπασαν, ἧς κύριος ἐκεῖνος γενόμενος ἐννέα ἔτη ὅλα κατέλιπε πέντε ταλάντων οὐσίαν καὶ τρισχιλίων δραχμῶν σὺν τοῖς ἑαυτοῦ πατρώοις, χωρὶς ἐκείνης ἧς Θεοφῶν τῇ θυγατρὶ αὐτοῦ ἔδωκεν, ἄγρον μὲν Θριᾷσι πένθ' ἡμιτάλαντα εὐρίσκοντα, οἰκίαν δὲ Μελίτῃ τρισχιλίων ἐωνημένην,<sup>3</sup> ἄλλην δὲ Ἐλευσῖνι πεντακοσίων. ἐδάφη μὲν ταῦτα, ἀφ' ὧν ἡ μίσθωσις τοῦ μὲν ἀγροῦ δώδεκα μναῖ, τῶν δὲ οἰκιῶν τρεῖς, αἱ πεντεκαίδεκα μναῖ συναμφότερα γίνονται· χρεᾶ δ' ἐπὶ τόκοις ὀφειλόμενα περὶ τετρακισχιλίας, ὧν τὸ ἔργον ἐπ' ἐννέα ὀβολοῖς ἑπτακόσιοι καὶ εἴκοσι
- 43 δραχμαὶ γίνονται τοῦ ἐνιαυτοῦ ἐκάστου. πρόσ-  
 οδος μὲν αὕτη δύο καὶ εἴκοσι μναῖ καὶ πρόσ-  
 χωρὶς δὲ τούτων κατέλιπεν ἔπιπλα, πρόβατα,  
 κριθάς, οἶνον, ὀπώρας, ἐξ ὧν ἐνεπόλησαν<sup>4</sup> τετρα-  
 κισχιλίας ἐννακοσίας· ἔτι δὲ ἔνδον ἐννακοσίας  
 δραχμάς. πρὸς δὲ τούτοις ἐξ ἐράνων ὀφλήματα  
 εἰσπεπραγμένα, μικροῦ δεούσας χιλίας δραχμάς,

<sup>1</sup> Θεοφῶν Aldus: -φρων.<sup>2</sup> τὰ ὄνθ' Blass: τόν θ'.<sup>3</sup> ἐωνημένην Reiske; ὦν-.<sup>4</sup> ἐνεπόλησαν Scaliger: ἐνεπώλ-.

supply our needs but not large enough to defray the cost of public services. An indication of this is that each of us received a dowry of only 20 minae with his wife, and so small a dowry would not be given to a husband with a large fortune. Stratocles, however, happened to receive an addition of more than two and a half talents to his fortune; for Theophon, his wife's brother, at his death adopted one of his daughters and left her his property, consisting of land at Eleusis worth two talents, 60 sheep, 100 goats, furniture, a fine horse which he rode when he was a cavalry commander, and all the rest of his goods and chattels. Having had complete control of this property for nine whole years, he left a fortune of 5 talents 3000 drachmae, including his patrimony but excluding the fortune left to his daughter by Theophon. His property comprised land at Thria <sup>a</sup> worth two and a half talents, a house at Melite <sup>b</sup> which cost 3000 drachmae, and another at Eleusis which cost 500 drachmae. These made up his real property, the land being let at 12 minae and the houses at 3, a total of 15 minae; but he had also about 4000 drachmae lent out at interest, the yearly income of which, at a monthly rate of 9 obols, amounts to 720 drachmae. He thus had a total income of rather more than 20 minae. Besides this he left furniture, sheep, barley, wine, and fruits, the sale of which brought in 4900 drachmae; also 900 drachmae were found in the house. In addition his—that is the child's—mother included in the inventory made in the presence of witnesses sums lent without interest, which were recovered,

<sup>a</sup> North-west of Eleusis.

<sup>b</sup> A quarter of Athens west of the Areopagus.

## ISAEUS

μαρτύρων ἐναντίον ἢ μήτηρ αὐτοῦ, τοῦ παιδός, ἀπεγράψατο. καὶ οὕτω λέγω περὶ τῶν ἄλλων, ἃ κατελείφθη μὲν οὗτοι δ' οὐκ ἀποφαίνουσιν, ἀλλὰ τὰ φανερά καὶ τὰ ὑπὸ τούτων ὁμολογούμενα. κάλει δέ μοι τῶν εἰρημένων τοὺς μάρτυρας.

## ΜΑΡΤΥΡΕΣ

- 44 Ἡ μὲν τοίνυν Στρατοκλέους οὐσία καὶ πλείων ταύτης ἐστίν· ἀλλ' ὕστερον περὶ τῶν παρακλεπτομένων ὑπὸ τούτων ποιήσομαι τοὺς λόγους· ἢ δ' ἐμὴ πόση τις; χωρίον ἐν Οἰνότη πεντακισχιλίων καὶ Προσπαλτοῖ τρισχιλίων, καὶ οἰκία ἐν ἄστει δισχιλίων, πρὸς δὲ τούτοις <ὁ><sup>1</sup> κλῆρος ὃν Ἀγνίας κατέλιπε, περὶ δύο τάλαντα· οὐ γὰρ ἂν οἶδ' ὅτι πλέον εὖροι<sup>2</sup> τούτου. ταῦτ' ἐστὶ τρία τάλαντα καὶ τετρακισχίλια μόνον, δέκα καὶ ἑκατὸν μναῖς
- 45 ἐλάττω τῶν τοῦ παιδός. καὶ γὰρ μὲν ἐγκαταλογίζομαι καὶ τὰ τοῦ υἱοῦ τοῦ ἐκποιηθέντος εἰς ταῦτα, τοῖς τοῦ παιδὸς δὲ οὐ προσέθηκα τὴν Θεοφῶντος οὐσίαν, πένθ' ἡμιτάλάντων οὖσαν, ἐφ' ἧ<sup>3</sup> ἐποίησατο τὴν ἀδελφὴν αὐτοῦ· ῥαδίως γὰρ ἂν εὗρεθείη καὶ ὀκτὼ τάλάντων ὁ τούτων οἶκος· ἀλλ' ἐκεῖνα ἀφήρηται χωρίς. καί μοι μὲν ὁ κλῆρος ὃν Ἀγνίας κατέλιπεν, οὗτος οὕτω βέβαιός ἐστι· δίκαι γὰρ
- 46 ἐνεστήκασιν ψευδομαρτυρίων, κελεύει δ' ὁ νόμος, εἰάν αὐτὸς τις τῶν ψευδομαρτυρίων, πάλιν ἐξ ἀρχῆς εἶναι περὶ αὐτῶν τὰς λήξεις· τὰ δὲ τοῦ παιδὸς ὁμολογημένα καὶ ἀναμφισβήτητα καταλέλοιπε Στρατοκλῆς. ὅτι δὲ τοσαῦτά ἐστι τὰμὰ σὺν

<sup>1</sup> ὁ add. Schoemann.

<sup>2</sup> εὖροι Bekker: εὕρη.

<sup>3</sup> ἧ Schoemann: ἡν.

amounting to nearly 1000 drachmae. I make no mention now of the other property which was left, but which my opponents refuse to disclose ; I only include what was declared and admitted by them. Please call the witnesses in support of the above statements.

## WITNESSES

Stratocles' fortune amounts to even more than this ; but I will deal later with my opponents' embezzlements. Now to what does my fortune amount ? I have a property at Oenoë worth 5000 drachmae and another at Prospalta worth 3000 drachmae and a house in Athens worth 2000 drachmae ; to this must be added the estate left by Hagnias, worth about two talents ; for I am sure that it would not fetch more than this. This gives a total of only three talents 4000 drachmae—110 minae less than the fortune of the child. I include in the reckoning the fortune of my son, who was adopted into another family, while I excluded from the child's fortune the property of Theophon, two and a half talents, which he left to his sister when he adopted her ; for their family property could be easily reckoned at eight talents, but the money which came from Theophon has been reckoned separately. On my side, the estate left by Hagnias is not yet secured to me ; for trials for perjury are still pending, and the law ordains that, if there is any conviction for perjury, the action claiming an estate must be heard over again. On the other hand, the child's fortune bequeathed to him by Stratocles is admitted and not contested. To prove that this is the amount of my property, including that of my son who has been adopted into another

τοῖς τοῦ ἐκποιήτου ὑέος, καὶ ψευδομαρτυριῶν  
ἐνεστᾶσι δίκαι περι τῶν Ἀγνίου, λαβὲ τὰς μαρ-  
τυρίας καὶ ἀνάγνωθι.

ΜΑΡΤΥΡΙΑΙ

- [89] Ἄρα μικρὰ τὰ διάφορα | ἐκατέροις τῆς οὐσίας  
47 ἡμῶν ἐστίν, ἀλλ' οὐ τηλικαῦτα ὥστε <ἐμοὶ><sup>1</sup>  
μηδεμίαν γενέσθαι παρὰ<sup>2</sup> τοὺς Στρατοκλέους παῖ-  
δας; <οὐκοῦν><sup>3</sup> οὐκ ἄξιον τοῖς τούτου<sup>4</sup> λόγοις  
πιστεύειν, ὃς τοσαύτης οὐσίας καταλελειμμένης  
ἐτόλμησεν ἐπὶ διαβολῇ ψεύσασθαι κατ' ἐμοῦ  
τηλικαῦτα<sup>5</sup> τὸ μέγεθος. καταλογίζεται τοίνυν ὡς  
ἐγὼ τρεῖς κλήρους εἰληφῶς καὶ πολλῶν χρημάτων  
εὐπορῶν ἀφανίζω τὴν οὐσίαν, ἣν' ὡς ἐλάχισθ'  
ὑμεῖς αὐτῶν ἀπολαύετε.<sup>6</sup> τοῖς γὰρ μηδὲν δί-  
καιον ἔχουσι περὶ τῶν πραγμάτων λέγειν ἀνάγκη  
πορίζεσθαι τοιούτους λόγους, ἐξ ὧν [ἄν] δια-  
βάλλοντες πλέον ἔχειν δυνήσονται τῶν ἀντιδίκων.  
48 ἐμοὶ δὲ μάρτυρές ἐστε πάντες ὅτι οἱ τῆς ἐμῆς  
γυναικὸς ἀδελφοί, Χαιρέλεως καὶ Μακάρτατος, οὐ  
τῶν λητουργούντων ἦσαν ἀλλὰ τῶν βραχεῖαν  
κεκτημένων οὐσίαν. Μακάρτατον γὰρ ἴστε ὅτι  
τὸ χωρίον ἀποδόμενος καὶ τριήρη πριάμενος καὶ  
ταύτην πληρωσάμενος εἰς Κρήτην ἐξέπλευσεν· οὐ  
γὰρ τὸ ἔργον ἀφανὲς ἐγένετο, ἀλλὰ καὶ λόγον  
ἐν τῷ δήμῳ παρέσχε, μὴ πόλεμον ἡμῖν ἀντ'  
εἰρήνης ἐκεῖνος πρὸς Λακεδαιμονίους ποιήσειε.  
49 Χαιρέλεως δὲ τὸ Προσπαλτοῖ χωρίον κατέλιπεν, ὃ

<sup>1</sup> ἐμοὶ add. Schoemann.

<sup>2</sup> παρὰ sched. Eton.: περὶ.

<sup>3</sup> οὐκοῦν add. Buermann.

<sup>4</sup> τοῖς τούτου Reiske: τούτοις τοῖς.

<sup>5</sup> τηλικαῦτα Aldus: -αύτη.

<sup>6</sup> ἀπολαύετε Aldus: -οιτε.

family, and that suits for perjury in connexion with Hagnias's estate are still pending, take and read the depositions.

## DEPOSITIONS

Is the difference, then, trifling between our respective fortunes? Or rather, is it not so great that mine is nothing in comparison with that of the children of Stratocles? No credence must therefore be attached to the statements of my opponent, who, though so large a fortune has been left to the children, has dared to utter such lies with the object of discrediting me. According to his reckoning I have received three inheritances and am in enjoyment of a large fortune, but I hide my wealth in order that you may derive as little advantage from it as possible.<sup>a</sup> Those who have no just claims to urge on the facts are obliged to bring forward such arguments as will give them an advantage over their adversaries by calumniating them. But you all are my witnesses that my wife's brothers, Chaereleos and Macartatus, were not among those who supported public burdens but among those who possessed only slender fortunes. You know that Macartatus sold his land and bought a trireme which he manned and sailed away in it to Crete. The affair was no secret but even gave rise to a discussion in the Assembly,<sup>b</sup> since it was feared that he might bring about a state of war instead of peace between us and the Lacedaemonians. Chaereleos left the estate at Prospalta, which would not fetch more

<sup>a</sup> *i.e.*, in order to avoid the performance of public services.

<sup>b</sup> See Introduction, pp. 386, 387.



πλέον οὐκ ἂν εὖροι<sup>1</sup> τριάκοντα μνῶν. συνέβη δὲ τὸν μὲν ταῦτα καταλιπόντα τελευτῆσαι πρότερον ἢ Μακάρτατον, ἐκείνον δὲ μετὰ ταύτης τῆς οὐσίας, ἣν ἔχων ἐξέπλευσεν· ἅπαντα γὰρ καὶ τὴν τριήρη καὶ αὐτὸν κατὰ τὸν πόλεμον ἀπώλεσε. καταλειφθέντος δὲ τοῦ Προσπαλτοῖ χωρίου καὶ γιγνομένου τῆς ἐκείνων ἀδελφῆς, ἐμῆς δὲ γυναικός, ἐπείσθη ὑπ' ἐκείνης εἰσποιῆσαι Μακαρτάτῳ τὸν ἕτερον τῶν παίδων· οὐχ ἵνα <μῆ><sup>2</sup> λητουργοίῃν,  
 50 εἰ<sup>3</sup> προσγένειτό μοι τοῦτο τὸ χωρίον. ὁμοίως γὰρ καὶ [μῆ] εἰσποιήσαντος τοῦτό γ' ὑπῆρχεν· οὐδὲ γὰρ ἐλητούργουν διὰ τοῦτό γ' ἥττον οὐδέν, ἀλλὰ καὶ τῶν εἰσφερόντων ἦν καὶ τῶν τὰ προσταττόμενα· ὑμῖν ἅπαντα ποιούντων. ὁ δὲ ὡς περὶ ἀχρήστου μὲν πλουσίου δὲ ἐπὶ διαβολῇ ποιεῖται τούτους τοὺς λόγους.

Ἐγὼ δ' ἐν κεφάλαιον ἐρῶ πάντων μέγιστον, ὃ καὶ ὑμῖν οἶδ' ὅτι δόξει δίκαιον. κοινώσασθαι γὰρ ἐθέλω τὴν οὐσίαν τὴν ἐμὴν τῇ τοῦ παιδός, καὶ εἴτε πολλὰ εἴτ' ὀλίγα ἐστίν, ἐν κοινῷ γενομένης λάβωμεν τὰ ἡμίσεα ἑκάτερος, ἵνα μηδὲν πλέον ἔχῃ ἄτερος τοῦ ἐτέρου τοῦ προσήκοντος· ἀλλ' οὐκ ἐθέλησει.

## ΑΕΙΗΕΙ

<sup>1</sup> εὖροι Reiske: εὕρητε.

<sup>2</sup> μῆ add. Bekker.

<sup>3</sup> εἰ Aldus: εἰς.

<sup>a</sup> This child is the Macartatus attacked in the pseudo-Demosthenic speech, [Dem.] xliii.

<sup>b</sup> Theopompus has already stated that his fortune did not render him liable to perform any λειτουργία (e.g., the



than 30 minae. The brother who left this estate happened to die before Macartatus, who in his turn perished with all the property which he took with him when he sailed away ; for he lost the trireme and everything else in the war as well as his own life. The estate at Prospalta was left and passed to their sister, who is my wife, and I was persuaded by her to allow one of our two sons to be adopted into the family of Macartatus.<sup>a</sup> My object was not to avoid the performance of public services which the addition of this estate would involve ; for my having allowed my son to be adopted made no difference, for indeed I performed public services<sup>b</sup> no less than before, but was among those who paid war contributions and carried out all the duties imposed by the state. My opponent, however, in representing me as a wealthy but unprofitable citizen is using these terms to calumniate me.

As the strongest argument of all, I will sum the matter up in a single proposal, which, I am sure, will appear to you to be just. I am willing to bring my whole estate into hotchpotch with that of the child, and let us each take half of the aggregate amount, whether it be large or small, so that neither party may have more than is fitting ; but my opponent will never consent to this.

[*The rest of the speech is lacking.*]

τριηραρχία or χωρηγία) : he is, therefore, here using the term in the wider sense of the duties of a citizen (*e.g.*, the payment of the war-tax and service in the army).



XII. ON BEHALF OF EUPHILETUS



## XII. ON BEHALF OF EUPHILETUS

### INTRODUCTION

THESE chapters, which have been preserved to us by Dionysius of Halicarnassus (*De Isaeo*, 17), are now usually numbered by the editors as the 12th Oration instead of being placed, as formerly, among the fragments. The subject differs from that of all the other speakers, being concerned with a question not of inheritance but of civic rights. Euphiletus, the son of Hegesippus, had been struck off the roll of the deme of Erchia by the decision of his fellow-demesmen, on whom a law had conferred the right of revising their lists. Anyone so rejected had the right of appeal to the courts, but the failure of the appeal involved the sale of the appellant into slavery and the confiscation of his property. The case had already been twice heard before arbitrators, who had given their decision in favour of Euphiletus ; nevertheless a majority of the demesmen seem to have persisted in their exclusion of him. The grounds of their action are not stated, except that the speaker alleges a private grudge. Thus no other course was left to Euphiletus, if he believed in the justice of his claims, except to bring the case into court.

The speech was delivered not by Euphiletus

## ISAEUS

himself but by his elder half-brother, the son of Hegesippus by a former marriage, acting as his advocate. As Dionysius explains in his argument, the facts of the case have already been stated and the various relatives have given their evidence ; the speaker in the passage before us then proceeds to confirm the evidence by showing that the witnesses had no motive for foisting an alien into the deme ; on the contrary, such witnesses as the speaker's maternal uncle or his brothers-in-law, who stood in no sort of relationship to Euphiletus, would have every motive for giving evidence against his claim, since the establishment of his rights as a citizen would mean that he would share in the paternal estate to the detriment of the speaker and his sisters. Dionysius seems justified in the admiration which he expresses for the argumentative skill displayed by Isaeus in this passage.

As we have seen, the argument prefixed to the passage by Dionysius states that the occasion of the speech was the passing of a law ordering the revision by the demes of their lists of members. Our authorities ascribe the proposal for this revision to Demophilus and place it in the archonship of Archias (346-345 B.C.). The law seems to have given rise to considerable commotion and to have been the cause of much litigation. We know the title of another speech of a similar character to the present, composed by Isaeus, *Against Boeotus, on his appeal against the demesmen* (Πρὸς Βοιωτῶν ἐκ δημοτῶν ἔφεσις), and the speech of Demosthenes *Against Eubulides* (Or. lvii.) deals with the same topic. If this date is accepted, we must place the present speech in the year 344-343 B.C., two years having

## ON BEHALF OF EUPHILETUS

elapsed while the case was before the arbitrators. This seems a very late date for Isaeus to be still writing speeches, but the only alternative is to suppose an earlier decree to the same effect as that of Demophilus, for which we have no evidence and which is in itself improbable.

THE TEXT.—The treatise by Dionysius of Halicarnassus *Περὶ τῶν ἀρχαίων ῥητόρων*, which deals with Isaeus and includes this and other fragments, is preserved in mss. which belong to two main families, which are best represented by a Florentine codex (F) in the Library of San Lorenzo (No. LIX., 15) and a Milan ms. (M) in the Ambrosian Library (No. D 119, Sup.). An account of the mss. and a full *apparatus criticus* are to be found in *Dionysii Halicarnasei opuscula*, ediderunt H. Usener et L. Radermacher, vol. i. (Leipzig, Teubner, 1899). It has been considered sufficient in the present edition to note the emendations introduced into the text which have no ms. authority.

## XII. ΥΠΕΡ ΕΥΦΙΛΗΤΟΥ

### ΥΠΟΘΕΣΙΣ

Τὸν Ἐρχιέων δῆμον εἰς τὸ δικαστήριον προσκαλεῖται<sup>1</sup> τις τῶν ἀποψηφισθέντων ὡς ἀδίκως τῆς πολιτείας ἀπελαυνόμενος. ἐγράφη γὰρ δὴ τις ὑπὸ τῶν Ἀθηναίων νόμος, ἐξέτασιν γενέσθαι τῶν πολιτῶν κατὰ δήμους, τὸν δὲ ἀποψηφισθέντα ὑπὸ τῶν δημοτῶν τῆς πολιτείας μὴ μετέχειν, τοῖς δὲ ἀδίκως ἀποψηφισθείσιν ἔφεισιν εἰς τὸ δικαστήριον εἶναι προσκαλεσαμένοις<sup>1</sup> τοὺς δημότας, καὶ εἰὰν τὸ δεύτερον ἐξελεγχθῶσι, πεπρᾶσθαι αὐτοὺς καὶ τὰ χρήματα εἶναι δημόσια. κατὰ τοῦτον τὸν νόμον ὁ Εὐφίλητος, προσκαλεσάμενος<sup>1</sup> τοὺς Ἐρχιέας ὡς ἀδίκως καταψηφισαμένους αὐτοῦ, τὸν ἀγῶνα τόνδε διατίθεται. προείρηται μὲν δὴ τὰ πράγματα ταῦτ' ἀκριβῶς καὶ πεπίστωται διὰ τῶν μαρτύρων· οἷς δὲ βεβαίως βούλεται ποιῆσαι τὰς μαρτυρίας, τὰδ' ἐστίν, ὡς μὲν ἐγὼ δόξης ἔχω, πάντ' ἀκριβῶς ἐξειργασμένα, κρινέτω δὲ ὁ βουλόμενος εἰ τὰ προσήκοντα ἔγνωκα περὶ αὐτῶν.

- 1 Ὅτι μὲν τοίνυν, ὦ ἄνδρες δικασταί, ἀδελφὸς ἡμῖν ἐστὶν οὗτοσὶ Εὐφίλητος, οὐ μόνον ἡμῶν ἀλλὰ καὶ τῶν συγγενῶν ἀπάντων ἀκηκόατε μαρτυρούντων. σκέψασθε δὲ πρῶτον τὸν πατέρα ἡμῶν, τίνος ἔνεκεν ἂν ψεύδοιτο καὶ τοῦτον μὴ ὄντα αὐτοῦ υἱόν

<sup>1</sup> προσκαλεῖται, προσκαλεσαμένοις, προσκαλεσάμενος Reiske: FM προκ-.



## XII. ON BEHALF OF EUPHILETUS

### ARGUMENT

(By Dionysius of Halicarnassus)

The Deme of Erchia is summoned before the court by one of its members who has been rejected by its vote and who pleads that he is being unjustly disfranchised. A law had been passed by the Athenians ordering that a revision should be made of the lists of citizens according to demes, and that anyone who was rejected by the votes of his fellow-demesmen should no longer enjoy the rights of citizenship ; those, however, who were unjustly rejected had the right to appeal to the court by summoning the members of the deme, and, if they were again excluded, they were to be sold as slaves and their property confiscated. It is under this law that Euphiletus, having summoned the demesmen of Erchia on the ground that they had unjustly rejected him, instituted the present case. The facts have been already skilfully set forth and confirmed by witnesses. The following passage, in which the orator seeks to confirm the evidence, is composed, in my opinion, with consummate skill, but the reader must decide for himself whether my judgement of it is correct.

Gentlemen, you have heard not only us but also all our kinsmen give evidence that Euphiletus here is our brother. Next consider, in the first place, what motive our father could have for lying and for having adopted Euphiletus as his son, if he

- 2 εἰσεποιεῖτο. πάντας γὰρ εὐρήσετε τοὺς τὰ τοιαῦτα  
 πράττοντας ἢ οὐκ ὄντων αὐτοῖς γνησίων παίδων ἢ  
 διὰ πενίαν ἀναγκαζομένους ξένους ἀνθρώπους  
 εἰσποιεῖσθαι, ὅπως ὠφελῶνται τι ἀπ' αὐτῶν δι'  
 αὐτοὺς Ἀθηναίων γεγονότων. τῷ τοίνυν πατρὶ  
 τούτων οὐδέτερον ὑπάρχει· γνήσιοι μὲν γὰρ αὐτῷ  
 ἡμεῖς δύο υἱεῖς ἐσμεν, ὥστε οὐκ ἂν γε δι' ἐρημίαν  
 3 τοῦτον εἰσεποιεῖτο. ἀλλὰ μὴν οὐδὲ τροφῆς τε καὶ  
 εὐπορίας τῆς παρὰ τούτου δεόμενος· ἔστι γὰρ  
 αὐτῷ <βίος><sup>1</sup> ἱκανός, καὶ χωρὶς τούτου μεμαρ-  
 τύρηται ὑμῖν τοῦτον ἐκ παιδίου<sup>2</sup> τρέφων καὶ ἀσκῶν  
 καὶ εἰς <τοὺς><sup>3</sup> φράτορας εἰσάγων,<sup>4</sup> καὶ ταῦτα οὐ  
 μικρὰ δαπανήματά ἐστιν. ὥστε τόν γε<sup>5</sup> πατέρα  
 ἡμῶν οὐκ εἰκός ἐστιν, ὧ ἄνδρες δικασταί, μηδὲν  
 ὠφελούμενον οὕτως ἀδίκῳ πράγματι ἐπιχειρῆσαι.  
 4 ἀλλὰ μὴν οὐδ' ἐμέ γε οὐδεὶς ἀνθρώπων οὕτω  
 τελέως ἂν ἄφρονα ὑπολάβοι, ὥστε τούτῳ μαρ-  
 τυρεῖν τὰ ψευδῆ, ὅπως τὰ πατρῶα διὰ πλειόνων  
 διανείμωμαι. καὶ γὰρ οὐδ' ἀμφισβητῆσαί μοι  
 ἐξουσία γένοιτ' ἂν ὕστερον ὥς οὐκ ἔστιν ἀδελφὸς  
 οὗτος ἐμοῦ· οὐδεὶς γὰρ ἂν ὑμῶν τὴν <ἐμὴν><sup>6</sup>  
 φωνὴν ἀνάσχοιτ' ἂν ἀκούων, <εἰ><sup>7</sup> νῦν μὲν ὑπόδικον  
 ἐμαυτὸν καθιστὰς μαρτυρῶ ὥς ἔστιν ἀδελφὸς  
 ἡμέτερος, ὕστερον δὲ φαινοίμην τούτοις ἀντιλέγων.  
 5 οὐ μόνον τοίνυν ἡμᾶς, ὧ ἄνδρες δικασταί, εἰκός  
 ἐστι τάληθῇ μεμαρτυρηκέναι, ἀλλὰ καὶ τοὺς ἄλλους  
 συγγενεῖς. ἐνθυμήθητε γὰρ πρῶτον μὲν ὅτι οἱ  
 τὰς ἀδελφὰς ἡμῶν ἔχοντες οὐκ ἂν ποτε ἐμαρ-

<sup>1</sup> βίος add. Reiske. <sup>2</sup> παιδίου Scheibe: παίδων FM.

<sup>3</sup> τοὺς add. Schoemann. <sup>4</sup> εἰσαγαγὼν Scheibe: εἰσάγων FM.

<sup>5</sup> γε Bekker: τε M, om. F, add. F<sup>2</sup>.

<sup>6</sup> ἐμὴν add. Sauppe.

<sup>7</sup> εἰ add. Sylburgh.

## ON BEHALF OF EUPHILETUS, 2-5

were not really so. You will find that all those who do such things either have no legitimate children of their own or else are constrained by poverty to adopt aliens in order that they may receive some assistance from them, because they are indebted to them for their Athenian citizenship. Our father had neither of these motives, for in us he has two legitimate sons, so that he would never have adopted Euphiletus because he lacked an heir. Nor again is he in need of any material support or comfort which Euphiletus could give him; for he is possessed of sufficient resources, and further evidence has been given you that he brought up Euphiletus and educated him from childhood and introduced him to the members of his ward—all of which represents a considerable outlay. So that it is unlikely, judges, that my father committed so wicked a crime from which he derived no advantage. Again, as for myself, no one could imagine me to be so completely insane as to bear false witness in favour of Euphiletus with the result that I should have to share my patrimony with a larger number of heirs. For I should never hereafter be at liberty to plead that Euphiletus is not my brother; for none of you would listen to me for a moment, if, after now bearing witness that he is my brother and making myself liable to the penalties of the law,<sup>a</sup> I should hereafter openly contradict this assertion. Thus, gentlemen, the probabilities are in favour of my having given true evidence, and the same is true of the other relatives. For observe, in the first place, that the husbands of our sisters would never have given false evidence in favour of Euphiletus;

<sup>a</sup> *i.e.*, as a perjurer.

τύρουν περὶ τούτου τὰ ψευδῇ· μητρὶα γὰρ ἡ  
 τούτου μήτηρ ἐγγένητο ταῖς ἡμετέραις ἀδελφαῖς,  
 εἰώθασι δέ πως ὡς ἐπὶ τὸ πολὺ διαφέρεσθαι ἀλλή-  
 λαις αἷ τε μητρὶα καὶ αἱ<sup>1</sup> πρόγονοι· ὥστε εἰ  
 οὗτος ἐξ ἄλλου τινὸς ἀνδρὸς ἦν τῇ μητρὶα καὶ  
 οὐκ ἐκ τοῦ ἡμετέρου πατρός, οὐκ ἂν ποτε, ὦ  
 ἄνδρες δικασταί, τοὺς ἑαυτῶν ἀνδρας αἱ ἀδελφαὶ  
 6 μαρτυρεῖν [εἴασαν καὶ] ἐπέτρεψαν. καὶ μὴν οὐδ'<sup>2</sup>  
 ἂν ὁ θεῖος πρὸς μητρὸς ἡμῖν ὢν, τούτῳ δὲ οὐδὲν  
 προσήκων δήπου τῇ τούτου μητρὶ ἠθέλησεν ἄν, ὦ  
 ἄνδρες δικασταί, μαρτυρῆσαι ψευδῇ μαρτυρίαν, δι'  
 ἣν ἡμῖν γίγνεται βλάβη περιφανής, εἴ περ ξένον  
 ὄντα τοῦτον εἰσποιοῦμεν ἀδελφὸν ἡμῖν αὐτοῖς.  
 ἔτι τοίνυν, ὦ ἄνδρες δικασταί, πρὸς τούτοις <πῶς><sup>3</sup>  
 ἂν τις ὑμῶν<sup>4</sup> καταγνοίῃ ψευδομαρτυρίων<sup>5</sup> Δημ-  
 αράτου τουτουὶ καὶ Ἡγήμονος καὶ Νικοστράτου,  
 οἳ πρῶτον μὲν οὐδὲν αἰσχρὸν οὐδέποτε φανήσονται  
 ἐπιτηδεύσαντες, εἴτα δ' οἰκεῖοι ὄντες ἡμῖν καὶ εἰ-  
 δότες ἡμᾶς ἅπαντας<sup>6</sup> μεμαρτυρήκασιν Εὐφιλῆτῳ  
 7 τουτῷ τὴν αὐτοῦ συγγένειαν ἕκαστος; ὥστε  
 ἠδέως καὶ τῶν ἀντιδικούντων ἡμῖν τοῦ σεμνοτά-  
 του πυθοίμην, εἰ ἄλλοθεν ποθεν ἔχοι ἂν' ἐπιδείξαι  
 αὐτὸν Ἀθηναῖον ἢ ἐκ τούτων ὧν καὶ ἡμεῖς Εὐ-  
 φίλητον ἐπιδείκνυμεν. ἐγὼ μὲν γὰρ οὐκ οἶμαι ἄλλο  
 τι ἂν αὐτὸν <εἰπεῖν><sup>8</sup> ἢ ὅτι ἡ μήτηρ ἀστή τέ ἐστι  
 καὶ <γαμετὴ καὶ ἀστὸς><sup>9</sup> ὁ πατήρ, καὶ ὡς ταῦτ'  
 ἀληθῇ λέγει, παρέχοιτ' ἂν αὐτῷ τοὺς συγγειεῖς  
 8 μάρτυρας. εἴτα, ὦ ἄνδρες δικασταί, εἰ μὲν οὗτοι

<sup>1</sup> αἱ Reiske: οἱ FM.

<sup>3</sup> πῶς add. Savile.

<sup>2</sup> οὐδ' Bekker: οὐκ FM.

<sup>4</sup> ὑμῶν Sylburg: ἡμῶν FM.

## ON BEHALF OF EUPHILETUS, 5-8

for his mother had become stepmother to our sisters, and it is customary for differences to exist between stepmothers and the daughters of a former marriage; so that, if their stepmother had borne Euphiletus to any man other than our father, our sisters would never have allowed their husbands to give evidence in his favour. Again, our uncle, a relative on our mother's side and no kinsman of Euphiletus, would never have consented, judges, to give in favour of Euphiletus's mother evidence which was manifestly against our interests, if Euphiletus were an alien whom we are attempting to introduce into the family as our own brother. Furthermore, judges, how could any of you convict of perjury Demaratus here and Hegemon and Nicostratus, who, in the first place, will never be shown to have lent themselves to any base action, and who, secondly, being our kinsmen and knowing us all, have each borne witness to his own relationship to Euphiletus? I should like, then, to hear from the most respectable of our opponents, whether he can produce any other sources of evidence to prove his own Athenian citizenship than those which we are employing in support of Euphiletus. I do not think he could urge any plea except that his mother was a citizen and a married woman and his father a citizen, and he would produce his kinsmen to bear witness that he was speaking the truth. Next, judges, if it were our opponents who were

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<sup>5</sup> *ψευδομαρτυρίων* Wyse: -*των* FM.

<sup>6</sup> *ἀπαντας* Reiske: -*τα* FM.

<sup>7</sup> *ἔχου ἂν* Holwell: *ἔχουιν* FM.

<sup>8</sup> *εἰπεῖν* add. Sauppe.

<sup>9</sup> *γαμετὴ καὶ ἀστὸς* add. Radermacher.

ἐκινδύνεον, ἡξίουν ἂν τοῖς αὐτῶν οἰκείοις ὑμᾶς<sup>1</sup>  
 πιστεύειν μαρτυροῦσι μᾶλλον ἢ τοῖς κατηγοροῖς·  
 νυνὶ δὲ ἡμῶν πάντα ταῦτα παρεχομένων ἀξιώσουσιν  
 ὑμᾶς τοῖς αὐτῶν πείθεσθαι λόγοις μᾶλλον ἢ τῷ  
 πατρὶ τῷ Εὐφιλήτου καὶ ἐμοὶ καὶ τῷ ἀδελφῷ καὶ  
 τοῖς φράτορσι καὶ πάσῃ τῇ ἡμετέρα συγγενείᾳ;  
 καὶ μὴν οὗτοι μὲν οὐδ' ἐν ἐνὶ<sup>2</sup> κινδυνεύοντες ἰδίας  
 ἔχθρας ἔνεκα ποιοῦσιν, ἡμεῖς δὲ πάντας ὑποδίκους  
 9 ἡμᾶς<sup>3</sup> αὐτοὺς καθιστάντες μαρτυροῦμεν. καὶ πρὸς  
 ταῖς μαρτυρίαις, ὧ ἄνδρες δικασταί, πρῶτον μὲν ἡ  
 τοῦ Εὐφιλήτου μήτηρ, ἣν οὗτοι ὁμολογοῦσιν ἀστὴν  
 εἶναι, ὅρκον ὁμόσαι ἐπὶ τοῦ διαιτητοῦ ἐβούλετο ἐπὶ  
 Δελφινίῳ ἢ μὴν τουτονὶ Εὐφίλητον εἶναι ἐξ αὐτῆς καὶ  
 τοῦ ἡμετέρου πατρός. καίτοι τίνα προσῆκε μᾶλλον  
 αὐτῆς ἐκείνης τοῦτο εἰδέναι; ἔπειτα, ὧ ἄνδρες  
 δικασταί, ὁ πατὴρ ὁ ἡμέτερος, ὃν εἰκός ἐστι μετὰ  
 τὴν τούτου μητέρα ἄριστα τὸν<sup>4</sup> αὐτοῦ ὑὸν γινώ-  
 σκειν,<sup>5</sup> οὗτος καὶ τότε καὶ νυνὶ βούλεται ὁμόσαι ἢ  
 μὴν<sup>6</sup> Εὐφίλητον τουτονὶ ὑὸν εἶναι αὐτοῦ ἐξ ἀστῆς  
 10 καὶ γαμετῆς γυναικός. πρὸς τούτοις τοίνυν, ὧ  
 ἄνδρες δικασταί, ἐγὼ ἐτύγχανον μὲν τρισκαι-  
 δεκαέτης ὦν, ὥσπερ καὶ πρότερον εἶπον, ὅτε  
 οὗτος ἐγένετο, ἔτοιμος δ' εἰμὶ ὁμόσαι ἢ μὴν<sup>7</sup>  
 Εὐφίλητον τουτονὶ ἀδελφὸν εἶναι ἐμαυτοῦ ὁμο-  
 πάτριον. ὥστε, ὧ ἄνδρες δικασταί, δικαίως ἂν καὶ  
 τοὺς ἡμετέρους ὅρκους πιστοτέρους νομίζοιτε ἢ  
 τοὺς τούτων λόγους· ἡμεῖς μὲν γὰρ ἀκριβῶς  
 εἰδότες ὁμόσαι περὶ αὐτοῦ θέλομεν, οὗτοι δὲ

<sup>1</sup> ὑμᾶς Savile: ἡμᾶς FM.

<sup>2</sup> οὐδ' ἐν ἐνὶ Scheibe: οὐδὲν οὐδενὶ FM.

<sup>3</sup> ὑποδίκους ἡμᾶς Victorius: ὑποδιημᾶς F, ὑποδίκους F<sup>2</sup>M.

<sup>4</sup> ἄριστα τὸν Reiske: ἄριστον FM.

## ON BEHALF OF EUPHILETUS, 8-10

on their trial, they would demand that you should believe the evidence of their kinsmen rather than their accusers ; and now, when we produce all these proofs, are they going to demand that you should believe what they say, rather than Euphiletus's father and me and my brother and the members of the ward and all our kindred ? Furthermore, our opponents are acting out of personal spite without exposing themselves to any risk, while we are all rendering ourselves liable to the penalties of the law in giving evidence. And in addition to the depositions, judges, in the first place, the mother of Euphiletus, who is admitted by our opponents to be a citizen, expressed before the arbitrators her willingness to swear an oath in the sanctuary of Delphinian Apollo that Euphiletus here was the issue of herself and our father ; and who had better means of knowing than she ? Secondly, judges, our father, who naturally is better able to recognize his own son than anyone else except his mother, was ready on the former occasion, and is ready now, to swear that Euphiletus here is his son by a mother who is a citizen and legally married. In addition to this, judges, I was thirteen years old, as I have already said, when he was born, and I am ready to swear that Euphiletus here is my brother by the same father. You would be justified then, judges, in regarding our oaths as more worthy of credence than the statements of our opponents ; for we, knowing all the facts, are willing to swear oaths concerning him, while they are repeating state-

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<sup>5</sup> γινώσκειν Sylburg: ἐγίνωσκειν FM.

<sup>6</sup> ἡ μὴν Sylburg: ἡμῶν FM.

<sup>7</sup> ἡ μὴν Sylburg: ὑμῶν FM.

## ISAEUS

11 ταῦτα ἀκηκοότες παρὰ τῶν τούτου διαφόρων ἢ αὐτοὶ πλάττοντες λέγουσι. πρὸς δὲ τούτοις, ὧ ἄνδρες δικασταί, ἡμεῖς μὲν τοὺς συγγενεῖς μάρτυρας καὶ ἐπὶ τῶν διαιτητῶν καὶ ἐφ' ὑμῶν παρεχόμεθα, οἷς οὐκ ἄξιον ἀπιστεῖν· οὗτοι δέ, ἐπειδὴ ἔλαχεν ὁ Εὐφίλητος τὴν δίκην τὴν προτέραν τῷ κοινῷ τῶν δημοτῶν καὶ τῷ τότε δημαρχοῦντι, ὃς νῦν τετελεύτηκε, δύο ἔτη τοῦ διαιτητοῦ τὴν δίκαιαν ἔχοντας οὐκ ἐδυνήθησαν οὐδεμίαν μαρτυρίαν εὑρεῖν ὥς οὐτοσὶ ἄλλου τινὸς πατρός ἐστιν ἢ τοῦ ἡμετέρου. τοῖς δὲ διαιτῶσι μέγιστα <ταῦτα><sup>1</sup> σημεῖα ἦν τοῦ ψεύδεσθαι τούτους, καὶ κατεδιήτησαν αὐτῶν ἀμφότεροι. καὶ μοι λαβέ<sup>2</sup> τῆς προτέρας διαίτης τὴν μαρτυρίαν.

## ΜΑΡΤΥΡΙΑ

12 Ὡς μὲν τοίνυν καὶ τότε ὦφλον<sup>3</sup> τὴν δίκαιαν, ἀκηκόατε. ἀξιῶ δέ, ὧ ἄνδρες δικασταί, ὥσπερ οὗτοι μέγα<sup>4</sup> τοῦτ' ἂν<sup>5</sup> ἔφησαν εἶναι σημεῖον ὥς οὐκ ἔστιν Ἑγησίππου, εἰ οἱ διαιτηταὶ αὐτῶν ἀπεδιήτησαν, οὕτω τὸ νῦν ἡμῖν τούναντίον εἶναι μαρτύριον, ὅτι ἀληθῆ λέγομεν, ἐπεὶ ἔδοξαν αὐτοῖς<sup>6</sup> ἀδικεῖν τοῦτον Ἀθηναῖον ὄντα καὶ κυρίως πρῶτον ἐγγραφέντα ὕστερον ἐξαλείψαντες. ὅτι μὲν οὖν ἀδελφὸς ἡμῶν ἐστιν οὐτοσὶ Εὐφίλητος καὶ πολίτης ὑμέτερος, καὶ ἀδίκως ὑβρίσθη ὑπὸ τῶν ἐν τῷ δήμῳ συστάντων, ἱκανῶς οἶομαι ὑμᾶς, ὧ ἄνδρες δικασταί, ἀκηκοέναι.

<sup>1</sup> ταῦτα add. Reiske.

<sup>2</sup> λαβέ Reiske: λάβετε FM.

<sup>3</sup> ὦφλον Holwell: ὦφειλον.

<sup>4</sup> μέγα Reiske: μετὰ FM.

<sup>5</sup> τοῦτ' ἂν Schoemann: ταῦτα FM.

<sup>6</sup> αὐτοῖς Radermacher: αὐτοὶ FM.



## ON BEHALF OF EUPHILETUS, 10-12

ments which they have heard from his enemies or uttering their own fabrications. Furthermore, judges, we are producing before you our kinsmen, as we produced them before the arbitrators, as witnesses whom there is no reason for you to disbelieve; whereas our opponents, when Euphiletus brought his former case against the community of the deme and the demarch then in office, who has since died, though the case was before the arbitrator for two years, could never find a single piece of evidence to show that Euphiletus was the son of any father other than our father. In the opinion of the arbitrators this was the strongest indication that our opponents were lying, and they both gave their award against them. Please take the deposition about the former arbitration.

### DEPOSITION

You have now heard that my opponents lost their case before the arbitrators. I claim, judges, that, just as they would have declared, if the arbitrators had decided in their favour, that this was a strong proof that Euphiletus is not the son of Hegesippus, so now you should regard as equally strong evidence of the truth of our contention the fact that they were considered by the arbitrators to be doing Euphiletus an injury in having subsequently deleted his name, though he was a citizen and had before been legally enrolled. You have, I think, now heard enough, judges, to convince you that Euphiletus here is our brother and your fellow-citizen, and that he has been unjustly insulted by those who have conspired against him in the deme.



THE LOST SPEECHES AND  
FRAGMENTS OF ISAEUS



## THE LOST SPEECHES AND FRAGMENTS OF ISAEUS

BESIDES the fragment of the *Speech for Euphiletus* (Or. xii.), passages from several lost speeches of Isaeus are quoted by Dionysius of Halicarnassus, who also indicates the subject matter of several of them. Numerous short sentences and still more numerous single words are quoted by the lexicographers. It is thus possible to compile a list of some forty-three orations of Isaeus which are lost to us. These are given below in alphabetical order with a short account of their subject, when anything is known about them, and the text and translation of all the existing fragments, except single words, have been added.

### I. Πρὸς Ἀγνόθεον.

#### Against Hagnotheus.

(Harpocration, *s.v.* ἐπισημαίνεσθαι : Dion. Hal. *De Isaeo*, § 8, pp. 598-599 ; § 12, pp. 607-608 [FRS. 1 and 2].)

The editors are in agreement in referring both the passages from Dionysius of Halicarnassus cited above to the same speech. That this speech is that *Against Hagnotheus* has been generally accepted, since Cobet's restoration of the name of Hagnotheus in the second line of the first passage.

A difficult point in connexion with the title of this speech is raised by the fact that Harpocration (*l.c.*) calls it ἡ ἐξούλης Καλυδῶνι πρὸς Ἀγνόθεον ἀπολογία. Now there are several mentions (see below, No. xxiv.) of a speech πρὸς Καλυδῶνα or πρὸς Καλυδῶνα ἐπιτροπῆς. Blass (*Att. Ber.* ii.<sup>2</sup> 573) is probably right in holding that the title given by Harpocration is a confusion of two titles and that there is no connexion between Hagnotheus and Calydon. The two passages given by Dionysius of Halicarnassus certainly seem to have nothing to do with an ἐξούλης δίκη (action for ejectment) being concerned with a guardianship.

Dionysius prefaces the first passage which he quotes with the following words: "Isaeus in the defence which he composed for a guardian accused by his own nephew,<sup>a</sup> begins as follows."

## II. Πρὸς Ἀπολλόδωρον ἀποστασίου ἀπολογία.

Against Apollodorus, a defence against a charge of contumacious conduct.

(Harpocration, *s.vv.* ἀπεργασάμενος, πολέμαρχος, etc.)

This speech, as its title indicates, was the defence of a resident alien, whose patron, Apollodorus, had summoned him for deserting or insulting him. Such cases were tried before the Polemarch (*Aristot. Ath. Pol.* 58 ; [Dem.] xxxv. p. 940).

<sup>a</sup> There is little doubt that ὑπὸ τοῦ ἰδίου ἀδελφιδοῦ, "by his own nephew," should be read for ὑπὸ τῶν ἰδίων ἀδελφῶν, "by his own brothers."

III. Περὶ τῶν ἀποφάσεων.

On the decisions (?).

(Photius, *s.v.* φαῦλον.)

Of this speech nothing is known.

IV. Πρὸς Ἀριστογείτονα καὶ Ἀρχιππον περὶ τοῦ Ἀρχεπόλιδος κλήρου.

Against Aristogeiton and Archippus, concerning the estate of Archepolis.

(Dion. Hal. *De Isaeo*, § 15, pp. 613-614; Suidas, *s.v.* διάθεσις [Fr. 3]; Pollux, x. 15 [Fr. 4]; Harpocration, *s.v.* ἐνεσκευασμένην.)

The argument of this speech is recorded by Dionysius of Halicarnassus (*l.c.*) and is as follows: "In the suit against Aristogeiton and Archippus a person claiming an estate, being brother of the deceased, summons the detainer of the personal property to produce it in court.<sup>a</sup> The possessor of the estate enters a special plea against the summons, alleging that the property has been left to him by will. Two points are in dispute, first, whether a will was made or not, secondly, if the will is controverted, which party ought then to have the estate. The speaker, having first dealt with the legal question and having shown from this point of view that the estate which is the subject of litigation ought not to be in the possession of one of the parties before a legal decision has been given, then goes on to his narrative, whereby he shows that the will was never made by the deceased."

<sup>a</sup> Cf. Or. vi. 31.

V. Κατ' Ἀριστοκλέους.

Against Aristocles.

(Harpocration, *s.v.* ὑπερήμεροι, who, however, throws doubt on the genuineness of this speech.)

VI. Κατὰ Ἀριστομάχου.

Against Aristomachus.

(Pollux, ii. 61, *s.v.* ἀνάπηρος [Fr. 5] ; ii. 8, *s.v.* νεογιλόν.)

VII. Πρὸς Βοιωτὸν ἐκ δημοτῶν ἔφεσις.

Against Boeotus, in an appeal against the decision of the demesmen.

(Harpocration, *s.vv.* Κειριάδης, λήξις.)

The occasion of this speech was the passage of a law calling upon the members of the demes to revise their lists ; the date and the effect of this law have been discussed in connexion with Or. xii. (see p. 430), which was delivered under the same circumstances. In Or. xii. Isaeus is supporting the claims of Euphiletus to be included on the roll of the deme ; here he is arguing for the exclusion of Boeotus from the deme of Ceiriadae. The Demosthenic speech *Against Boeotus about the name* (Or. xxxix.) was written against the same person, who was then claiming the name of Mantitheus against his half-brother. In that speech it is maintained that Boeotus was an illegitimate son of Mantias, by whom he had been adopted before his father's death, while Mantitheus was a legitimate son ; no doubt the same argument was used by Isaeus in support of his exclusion from the rights of citizenship.



## LOST SPEECHES v-ix

### VIII. Πρὸς τοὺς δημότας περὶ χωρίου.

Against the demesmen concerning an estate.

(Dion. Hal. *De Isaeo*, § 10, p. 603 [Fr. 6]; Harpocration, *s.v.* Σφηττός.)

The opening passage of this speech is preserved by Dionysius of Halicarnassus, who states that it was delivered in support of a claim to an estate detained by the members of a deme who had received it as a pledge. It may be concluded from the citation by Harpocration that the deme was that of Sphettus belonging to the tribe Acamantis.

### IX. Κατὰ Διοκλέους ὕβρεως.

Against Diocles for violence.

(Harpocration, *s.vv.* καταδικασάμενος, etc.; Pollux, vii. 151; Bekker, *Anecd.* i. p. 173. 26 [Fr. 7].)

Fragments of two speeches against Diocles, who also figures in Or. viii. as the instigator of the claimant to the estate of Ciron, who had married Diocles' sister as his second wife. One of these was a prosecution for violence no doubt in connexion with Diocles' treatment of the husband of one of his half-sisters referred to in Or. viii. 41, where it is said that "he imprisoned him by walling him up<sup>a</sup> and by a plot deprived him of his civic rights, and though he was indicted for outrage he has not yet been punished."

<sup>a</sup> The words ἐκπλινθεύσας and κατωκοδόμησεν quoted by Harpocration from this speech no doubt refer to this incident.

X. Πρὸς Διοκλέα περὶ χωρίου.

Against Diocles in the matter of an estate.

(Suidas, *s.v.* πατρώων [Fr. 8]; Harpocration, *s.v.* Ἀμαζόνιον; Pollux, x. 11.)

Diocles' treatment of another half-sister is the subject of this speech. According to Or. viii. 41, "As for the husband of the next sister, he ordered a slave to kill him and smuggled away the murderer, and then threw the guilt upon his sister, and having terrified her by his abominable conduct he has robbed her son, whose guardian he became, of all his property, and is still in possession of his land and has only given him some stony ground." We learn from a fragment that the present speech was composed for delivery on behalf of Menecrates, and that his father, who had married a half-sister of Diocles, was named Lysimenes.

XI. Πρὸς Διοφάνην ἐπιτροπῆς ἀπολογία.

Against Diophanes, a defence in an action about a guardianship.

(Harpocration, *s.vv.* παρηγγύησεν καὶ παρεγγυηθέντος [FRS. 9 and 10] and *ἱερὰ ὁδός*.)

XII. Πρὸς Δωρόθεον ἐξούλης.

Against Dorotheus, in an action for forcible ejectment.

(Suidas, *s.vv.* ὁμοῦ [Fr. 11], and *ἐπιτήθη*; Harpocration, *s.v.* οἰσίας δίκη.)

XIII. Κατ' Ἐλπαγόρου καὶ Δημοφάνους.

Against Elpagoras and Demophanes.

(Harpocration, *s.vv.* σύνδικοι (*cf.* *Etym. Magn.* p. 734. 57) [Fr. 12], ἀλουργοπωλική, Ἀραφήνιος, etc.)

## LOST SPEECHES X-XVI

An oratorical fragment preserved in a papyrus (*Oxyrh. Pap.* iii. 415) has been conjecturally attributed to this speech by the restoration of the names [Elpagor]as and De[mophanes]. Though the restoration of the names is possible, there does not seem sufficient evidence for the inclusion of the passage among the fragments of Isaeus.

### XIV. Πρὸς Ἐπικράτην.

Against Epicrates.

(Lexicon ed. Sakkelion, *B.C.H.* i. (1877) p. 151 [Fr. 13].)

This speech was unknown until the publication of a Demosthenic Lexicon from a manuscript discovered in the island of Patmos.

### XV. Πρὸς Ἑρμῶνα περὶ ἐγγύης.

Against Hermon, in the matter of a surety.

(Suidas, *s.v.* ἀνακαῖον (*sic*) [Fr. 14]; Harpocration, *s.vv.* ἀναγκαῖον, ἀφοσιῶ, Βόθυνος, etc.)

### XVI. Πρὸς Εὐκλείδην περὶ τῆς τοῦ χωρίου λύσεως.

Against Eucleides, regarding the release of a plot of land.

(Dion. Hal. *De Isaeo*, § 14, p. 612; Harpocration, *s.vv.* Τρικέφαλος [Fr. 15], Ἀγνάας, etc.; Pollux, viii. 48; Priscian, *Inst. Gram.* xvii. 18 (p. 70), [Fr. 16].)

This case was no doubt concerned with the release of a piece of land from mortgage.

## ISAEUS

### XVII. Πρὸς Εὐκλείδην τὸν Σωκρατικόν. Against Eucleides the Socratic.

(Harpocraton, *s.v.* ὅτι [Fr. 17].)

It is uncertain whether this is a separate speech or identical with No. xv. Eucleides of Megara was present at the death of Socrates (Plato, *Phaedo*, 59 c) and is represented in the *Theaetetus* as devoted to the memory of Socrates ; but it is difficult to see how he could have become involved in a lawsuit at Athens, unless he had become a resident alien at Athens, which is unlikely as he was head of a school of philosophy at Megara.

### XVIII. Ὑπὲρ Εὐμάθους, εἰς ἐλευθερίαν ἀφ- αίρεσις.

On behalf of Eumathes, for the assertion of the liberty of a freedman.

(Dion. Hal. *De Isaeo*, § 5, p. 592 [Fr. 18] ; Harpocraton, *s.v.* ἄγει [Fr. 19] ; Suidas, *s.v.* ἐμποδῶν [Fr. 20].)

Dionysius of Halicarnassus introduces his quotation with the following words : " There is a speech of Isaeus in defence of a resident alien Eumathes, who was among those who carried on the business of banking at Athens. When the heir of the man who had given him his liberty tried to seize him as a slave, one of the citizens asserted his right to freedom and pleaded in his defence. His speech opens as follows."

We learn from the fragment preserved by Dionysius of Halicarnassus that the original owner of Eumathes was Epigenes and that the name of his

heir was Dionysius. The citizen who opposed the enslavement of Eumathes was Xenocles. The result of his interposition was that Eumathes was set at liberty but had to appear before the Polemarch and provide three sureties ; Dionysius then brought an action claiming his person (*δίκη ἀφαιρέσεως*). The passage quoted by Dionysius shows that the date of the speech is subsequent to 358-357 B.C. (the archonship of Cephisodotus).

XIX. Κατὰ Θουτίμου.

Against Thutimus.

(Harpocraton, *s.v.* Περγασῆθεν.)

XX. Πρὸς Ἰσχόμαχον.

Against Ischomachus.

(Harpocraton, *s.v.* χίλιοι διακόσιοι [Fr. 21].)

XXI. Πρὸς Καλλικράτην.

Against Callicrates.

(Suidas, *s.v.* ὁμοῦ [Fr. 22] ; Harpocraton, *s.vv.* διασκευάσασθαι, ἐνδικάσασθαι.)

XXII. Πρὸς Καλλιππίδην.

Against Callippides.

(Harpocraton, *s.v.* ἀντεπιτίθησιν.)

XXIII. Κατὰ Καλλιφώντος.

Against Calliphon.

(Harpocraton, *s.v.* ἐπιτίταις [Fr. 23].)

XXIV. Πρὸς Καλυδῶνα.

Against Calydon.

(Harpocration, *s.vv.* Ἀνθεμόκριτος [Fr. 24], Κεφαλῆθεν, χρῆσται, etc.)

XXV. Κατὰ Κλεομέδοντος.

Against Cleomedon.

(Harpocration, *s.v.* κλητῆρες.)

XXVI. Πρὸς Λυσίβιον περὶ ἐπικλήρου.

Against Lysibius, in the matter of an heiress.

(Pollux, x. 15 [Fr. 25]; Suidas, *s.v.* τέως [Fr. 26]; Harpocration, *s.vv.* ἐπίδικος, νοθεῖα.)

XXVII. Περὶ τῶν ἐν Μακεδονίᾳ ῥηθέντων.

On the speeches made in Macedonia.

(Harpocration, *s.vv.* Ἀλκέτας, Ἐπικράτης, πέπλος.)

The occasion of this embassy to Macedonia is uncertain. Alcetas, whose name is quoted by Harpocration, was king of the Molossians.

XXVIII. Κατὰ Μεγάρων.

Against the Megarians.

(Harpocration, *s.v.* Σφοδρίας.)

Harpocration throws doubt on the genuineness of this speech.

XXIX. Πρὸς Μέδοντα περὶ χωρίου.

Against Medon, regarding a plot of ground.

(Harpocration, *s.v.* πανδαισία, ψευδεγγραφή, etc.)

XXX. Πρὸς Μενεκράτην.

Against Menecrates.

(Harpocration, *s.v.* περιόκιον [Fr. 27].)

XXXI. Μετοικικός.

On the status of a resident alien.

(Harpocration, *s.v.* συλλογῆς.)

XXXII. Ὑπὲρ τῆς Μνησιθέου θυγατρὸς.

On behalf of the daughter of Mnesitheus.

(Harpocration, *s.v.* ἀπορώτατος [Bekker, *Anecd.* i. 434].)

XXXIII. Ὑπὲρ Νικίου.

On behalf of Nicias.

(Harpocration, *s.v.* ἀπορρέξαντες, χίλιοι διακόσιοι.)

XXXIV. Πρὸς Νικοκλέα (*sive* Νεοκλέα) περὶ  
χωρίου.

Against Nicocles (or Neocles) regarding a plot of  
ground.

(Harpocration, *s.v.* Θυργωνίδαι, κλητῆρες, etc.)

## ISAEUS

### XXXV. Πρὸς ὀργεῶνας.

Against the members of a religious confraternity.

(Harpocration, *s.v.* παλίνσκιον [FR. 28], ἀποφοράν [FR. 29], ὀργεῶνας, etc.)

The suit in which this speech was delivered appears to have been concerned with the possession of a piece of land.

### XXXVI. Περὶ τῆς ποιήσεως.

On the adoption.

(Harpocration, *s.v.* Οἶον.)

### XXXVII. Κατὰ Ποσειδίππου.

Against Poseidippus.

(Harpocration, *s.v.* Θορικός.)

### XXXVIII. Πρὸς Πύθωνα ἀποστασίον.

Against Python, on an accusation of contumacious conduct.

(Harpocration, *s.v.* διαμαρτυρία, κλητῆρες.)

Compare Πρὸς Ἀπολλόδωρον ἀποστασίον ἀπολογία (p. 446).

### XXXIX. Πρὸς Σάτυρον ὑπὲρ ἐπικλήρου.

Against Satyrus, on behalf of an heiress.

(Harpocration, *s.v.* ἐπίδικος.)



XL. Κατὰ Στρατοκλέους.

Against Stratocles.

(Harpocraton, *s.v.* ὁθνεῖος.)

This is perhaps identical with No. xli.

XLI. Πρὸς Στρατοκλέα.

Against Stratocles.

(Harpocraton, *s.vv.* διωλύγιον [FR. 30], μεῖλον [FR. 31].)

XLII. Τεμενικός.

On a sacred enclosure.

(Harpocraton, *s.vv.* ἄμιπποι, Λύκος ἥρωσ.)

XLIII. Πρὸς Τίμωνίδην περὶ χωρίου.

Against Timonides, concerning a plot of ground.

(Harpocraton, *s.v.* οὐσίας δίκη.)

XLIV. Πρὸς Τληπόλεμον ἀντωμοσία.

Against Tlepolemus, on a special plea.

(Ptolemaeus, Περὶ διαφορᾶς λέξεων, *Hermes*, xxii. (1887) p. 410 [FR. 32]; Harpocraton, *s.v.* ἐπώγνια.)

## ΑΠΟΣΠΑΣΜΑΤΑ

### Ι. Πρὸς Ἀγνόθεον

#### 1

(Dion. Hal. *De Isaeo*, § 8, pp. 598-599.)<sup>1</sup>

[Th. 22] Ἐβουλόμην μὲν, ὦ ἄνδρες δικασταί, μὴ λίαν οὕτως Ἀγνόθεον<sup>2</sup> πρὸς χρήματ'<sup>3</sup> ἔχειν αἰσchrῶς ὥστε τοῖς ἀλλοτρίοις ἐπιβουλεύειν καὶ δίκας τοιαύτας λαγχάνειν, ἀλλ' ὄντα γε<sup>4</sup> οὖν ἀδελφιδοῦν ἐμὸν καὶ κύριον τῆς πατρῴας οὐσίας, οὐ μικρὰς ἀλλ' ἱκανῆς ὥστε καὶ λητουργεῖν, ὑφ' ἡμῶν αὐτῷ<sup>5</sup> παραδοθείσης, ταύτης ἐπιμελεῖσθαι, τῶν δ' ἐμῶν μὴ ἐπιθυμεῖν, ἵνα βελτίων τ' ἐδόκει<sup>6</sup> πᾶσιν εἶναι σώζων αὐτὴν καὶ πλείω ποιῶν χρησιμώτερον ὑμῖν πολίτην παρείχεν ἑαυτόν. ἐπεὶ δὲ τὴν μὲν ἀνήρηκε καὶ πέπρακε καὶ αἰσchrῶς καὶ κακῶς διολώλεκεν, ὥς οὐκ ἂν ἐβουλόμην, πιστεύων δ' ἑταιρείαις καὶ λόγων παρασκευαῖς ἐπὶ τὴν ἐμὴν ἐλήλυθεν, ἀνάγκη, ὥς ἔοικε, συμφορὰν μὲν εἶναι νομίζειν

<sup>1</sup> For the mss. of Dion. Hal. see p. 431.

<sup>2</sup> Ἀγνόθεον Cobet: ἀγνοηθέντα FM.

<sup>3</sup> πρὸς χρήματ' Bekker: προσσχήματ' F, προσχήματ' M.

<sup>4</sup> ἀλλ' ὄντα γε Dobree: ἀλλ' οὐ τό γε FM.

<sup>5</sup> αὐτῷ Reiske: αὐτῶν FM.

<sup>6</sup> τ' ἐδόκει Reiske: τε δοκῇ M, -κῇ F.

<sup>a</sup> The speaker had been guardian to Hagnotheus during his minority.

## FRAGMENTS

### I. *Against Hagnotheus*

#### 1

I could have wished, judges, that Hagnotheus were not possessed by so discreditable a passion where money is concerned as to intrigue against the property of others and institute lawsuits such as the present. Since he is my nephew and master of a considerable property, ample enough for the discharge of public services, and handed over to him by us,<sup>a</sup> I would that he took due care of his own estate instead of coveting mine, so that by conserving his wealth he might have enjoyed a better reputation and by increasing it might have shown himself a more profitable member of your community. But since he has squandered, alienated, and disgracefully and wickedly made away with it—conduct which no one deplores more than I do—and now, trusting to the support of his political associates <sup>b</sup> and to methods of chicanery, has attacked my property, no course, it seems, is open to me but to regard it as a misfortune that I have such a man

<sup>b</sup> Thucydides (viii. 54) refers to the increasing activity, even in his day, of the political clubs in support of their members who engaged in litigation.

ὅτι τοιοῦτός ἐστιν οἰκεῖος ὢν, ἀπολογεῖσθαι δὲ περὶ ὧν ἐγκέκληκε καὶ ἔξω με τοῦ πράγματος διαβέβληκεν, ὥς ἂν οὖν δυνώμεθα προθυμότατα πρὸς ὑμᾶς.

## 2

(Ib. § 12, pp. 607-608.)

[Th. 23] Πόθεν χρὴ πιστεῦεσθαι τὰ εἰρημένα πρὸς θεῶν; οὐκ ἐκ τῶν μαρτύρων; οἷομαί γε. πόθεν δὲ τοὺς μάρτυρας; οὐκ ἐκ τῶν βασάνων; εἰκός γε. πόθεν δέ γε ἀπιστεῖσθαι τοὺς λόγους τοὺς τούτων; οὐκ ἐκ τοῦ φεύγειν τοὺς ἐλέγχους; ἀνάγκη μεγάλη. φαίνομαι τοίνυν ἐγὼ μὲν διώκων ταῦτα καὶ τὰ πράγματα εἰς βασάνους ἄγων, οὗτος δὲ ἐπὶ διαβολὰς καὶ λόγους καθιστάς, ὅπερ ἂν τις πλεονεκτεῖν βουλόμενος ποιήσειεν.<sup>1</sup> ἐχρῆν δὲ αὐτόν, εἴ πέρ τι δίκαιον ἐφρόνει<sup>2</sup> καὶ μὴ παρακρούσασθαι<sup>3</sup> τὰς ὑμετέρας γνώμας ἐζήτει,<sup>4</sup> μὴ μὰ Δία ταῦτα ποιεῖν, ἀλλ' ἐπὶ τὸν λογισμὸν μετὰ μαρτύρων ἔλθειν καὶ ἐξετάζειν ἕκαστα τῶν ἐν τῷ λόγῳ, τοῦτον τὸν τρόπον παρ' ἐμοῦ πυνθανόμενον. εἰσφορὰς λογίζῃ πόσας<sup>5</sup>;—τόσας.—κατὰ<sup>6</sup> πόσον ἀργύριον εἰσηνεγεμένας<sup>7</sup>;—κατὰ τόσον καὶ τόσον.—κατὰ ποῖα<sup>8</sup> ψηφίσματα;—ταυτί.—ταύτας εἰλήφασιν τίνες;—οἶδε.—καὶ<sup>9</sup> ταῦτα μαρτυρόμενον<sup>10</sup> σκέ-

<sup>1</sup> ποιήσειεν Schoemann: ἐποίησε FM.

<sup>2</sup> ἐφρόνει Reiske: φρονεῖ FM.

<sup>3</sup> παρακρούσασθαι Sylburg: -εσθαι FM.

<sup>4</sup> ἐζήτει Reiske: ζητεῖ FM.

<sup>5</sup> πόσας Reiske: πρὸς FM. <sup>6</sup> κατὰ Reiske: καὶ FM.

<sup>7</sup> εἰσηνεγεμένας Sylburg: -νης FM.

<sup>8</sup> ποῖα Reiske: πόσα FM.

<sup>9</sup> οἶδε. καὶ Buermann: οἱ καὶ FM.

<sup>10</sup> μαρτυρόμενον Buermann: -νοι FM.

## FRAGMENTS 1-2

as a relative, and to make my defence before you against the charges which he has brought, and his entirely irrelevant calumnies, with all the energy of which I am capable.

### 2

Why, in heaven's name, ought you to believe what I have said? Ought you not to do so because of the witnesses? I certainly think so. But why should you believe the witnesses? Should you not do so, because of the examinations under torture? It is only reasonable. And why should you disbelieve the story of my opponents? Should you not do so because they refuse the usual tests? This is an absolutely necessary consequence.<sup>a</sup> It is quite obvious, then, that I am pursuing this course<sup>b</sup> and bringing the case to the test of examination under torture, while my opponent makes it an occasion for calumnies and argument, as a man would do whose sole object is to win his case. If he had any thoughts of justice and were not seeking to mislead your judgement, he ought not, by heaven, to be acting like this but ought to proceed to an exact reckoning supported by witnesses and examine every item in the accounts, interrogating me in the following manner: "How much do you reckon for taxes?" "So much." "On what basis were they paid?" "On such and such a basis." "In accordance with what decrees?" "These." "Who have received the contributions?" "So and so." And

<sup>a</sup> Cf. Or. viii. 28, where the same commonplace is found.

<sup>b</sup> The words *διώκων ταῦτα* are perhaps corrupt: Rauchenstein suggests *διακριβῶν πάντα*, "particularizing every detail."

## ISAEUS

ψασθαι, τὰ ψηφίσματα, τὸ πλῆθος τῶν εἰσφορῶν, τὰ εἰσενηγεγμένα, τοὺς λαβόντας, καὶ εἰ μὲν εὖ τε <καὶ καλῶς εἶχε>,<sup>1</sup> τῷ λόγῳ πιστεύειν, εἰ δὲ μή, νῦν παρασχέσθαι μάρτυρας, εἴ τι ψεῦδος ἦν ὧν ἐλογισάμην αὐτῷ.<sup>2</sup>

<sup>1</sup> καὶ καλῶς εἶχε add. Sauppe.

<sup>2</sup> αὐτῷ Buermann: -τῆς FM.

[Th. 1] IV. Πρὸς Ἀριστογείτονα καὶ Ἀρχιππον περὶ τοῦ Ἀρχεπόλιδος κλήρου

3

(Suidas, s.v. διάθεσις.)

Μετὰ ταύτην τοίνυν τὴν ἀπόκρισιν ἑτέραν διαθήκην ἐκόμισαν, ἣν ἔφασαν Ἀρχέπολιν ἐν Λήμνῳ διαθέσθαι.

4

(Pollux, x. 15.)

[Th. 2] Διαθηκῶν δὲ τεσσάρων ὑπ' αὐτῶν ἐσκευασμένων. . . .

VI. Κατὰ Ἀριστομάχου

5

(Pollux, ii. 61.)

[Th. 3] Κατέλιπεν ἐν τῷ χωρίῳ γέροντας καὶ ἀναπήρους.

VIII. Πρὸς τοὺς δημότας περὶ χωρίου

6

(Dion. Hal. *De Isaeo*, § 10, p. 603.)

[Th. 4] Μάλιστα μὲν ἐβουλόμην, ὥ ἄνδρες δικασταί, μηδ' ὑφ' ἐνὸς ἀδικεῖσθαι τῶν πολιτῶν, εἰ δὲ μή, τοιού-

## FRAGMENTS 2-6

he ought to scrutinize my evidence on these points—the decrees, the number of contributions, the sums paid, and the receivers of them—and if everything were exact and in order, he ought to trust my reckoning; if not, he ought now to produce witnesses regarding any misstatements in the accounts which I submitted to him.

### IV. *Against Aristogeiton and Archippus, in the matter of the estate of Archepolis*

3

After this reply they produced another will which they alleged Archepolis had made in Lemnos.

4

Four wills having been forged by them.

### VI. *Against Aristomachus*

5

He left on the estate old men and cripples.

### VIII. *Against the demesmen, concerning an estate*

6

My desire, judges, would have been never to suffer injustice at the hands of any one of my fellow-citizens; or, if that were impossible, to find adver-

των ἀντιδίκων τυχεῖν πρὸς οὓς ἂν οὐδὲν ἐφρόντιζον  
διαφερόμενος. νῦν δέ μοι πάντων πραγμάτων  
λυπηρότατον συμβέβηκεν· ἀδικοῦμαι γὰρ ὑπὸ τῶν  
δημοτῶν, οὓς περιορᾶν μὲν ἀποστεροῦντας οὐ  
ῥάδιον, ἀπέχθεσθαι δὲ ἀηδές,<sup>1</sup> μεθ' ὧν ἀνάγκη <καὶ  
θύειν><sup>2</sup> καὶ συνουσίας κοινὰς ποιεῖσθαι. πρὸς μὲν  
οὖν πολλοὺς χαλεπὸν ἀντιδικεῖν· μέγα γὰρ μέρος  
συμβάλλεται <τὸ><sup>3</sup> πλῆθος αὐτοῖς πρὸς τὸ δοκεῖν  
ἀληθῆ λέγειν· ὅμως δὲ διὰ τὸ πιστεύειν τοῖς  
πράγμασι, πολλῶν μοι καὶ δυσκόλων συμπιπτόν-  
των, οὐχ ἡγούμην δεῖν κατοκνήσαι δι' ὑμῶν πει-  
ρᾶσθαι τυγχάνειν τῶν δικαίων. δέομαι οὖν ὑμῶν  
συγγνώμην ἔχειν, εἰ καὶ νεώτερος ὢν λέγειν ἐπὶ  
δικαστηρίου τετόλμηκα· διὰ γὰρ τοὺς ἀδικοῦντας  
ἀναγκάζομαι παρὰ τὸν ἑμαντοῦ τρόπον τοιοῦτόν τι  
ποιεῖν. πειράσομαι δ' ὑμῖν ἐξ ἀρχῆς ὥς ἂν δύνωμαι  
διὰ βραχυτάτων εἰπεῖν περὶ τοῦ πράγματος.

<sup>1</sup> ἀηδές Sylburg: ἡδέως FM.

<sup>2</sup> καὶ θύειν add. Sauppe.

<sup>3</sup> τὸ add. Sylburg.

## IX. Κατὰ Διοκλέους ὕβρεως

7

(Bekker, *Anecd.* p. 173. 26.)

[Th. 5] Ὁ δὲ ἀδελφὸς ὁ ἐμὸς καὶ Κτήσων, οἰκέιος ὢν  
ἡμῖν, συντυγχάνουσι τῷ Ἑρμῶνι εἰς Βόθυνον  
ἀπίοντι.

## X. Πρὸς Διοκλέα περὶ χωρίου

8

(Suidas, s.v. πατρῶν.)

[Th. 6] Ἀποφανῶ γὰρ ὑμῖν, ὥς οὐκ ἔστι τῆς ἐπι-



## FRAGMENTS 6-8

saries, to quarrel with whom would cause me little concern. As it is, the most grievous thing possible has happened to me ; I am the victim of injustice at the hands of my fellow-demesmen, whose robbery I cannot easily pass over in silence, yet with whom it is unpleasant to be at enmity, since I am obliged to share their sacrifices and attend their common gatherings. It is difficult to defend oneself at law against a large body of adversaries ; for their mere number contributes in no small degree to give their statements an appearance of truth. Nevertheless, since I have confidence in the facts, though many difficulties beset me, I think I ought not to shrink from trying to obtain justice at your hands. I beg you, therefore, to excuse me, if at my early age I have ventured to address a court of law ; it is those who are wronging me who constrain me to act thus in a manner alien to my natural character. I will try to put my story before you from the beginning in the briefest possible words.

### IX. *Against Diocles for violence*

7

My brother and Cteson, a relative of ours, met Hermon as he was starting for Bothynus.<sup>a</sup>

### X. *Against Diocles, in the matter of an estate*

8

I will prove to you that this estate does not belong,

<sup>a</sup> Harpocration (*s.v.*) states that Bothynus was on the Sacred Way leading from Athens to Eleusis.

## ISAEUS

κλήρου τὸ χωρίον τοῦτο οὐδ' ἐγένετο πώποτε,  
ἀλλ' ὡς ἦν πατρῶον Λυσιμένει τῷ πατρὶ Μενε-  
κράτους· ὁ δὲ Λυσιμένης ἔσχε τὰ πατρῶα πάντα.

### XI. Πρὸς Διοφάνην ἐπιτροπῆς ἀπολογία

9

(Harpocraton, *s.v.* παρηγγύησεν καὶ παρεγγυηθέντος.)

[Th. 7] Τὸ μὲν παρών,<sup>1</sup> τὸ δὲ παρ' ἐτέρων μεταλαβεῖν  
παρηγγύησεν.

<sup>1</sup> παρών Sauppe: παρόν.

10

(Harpocraton, *ib.*)

[Th. 8] Τὰ μὲν ἐμοῦ διαλύσαντος, β' τάλαντα καὶ λ'  
μνᾶς, τὰ δὲ τοῦ γεωργοῦ παρεγγυηθέντος. . . .

### XII. Πρὸς Δωρόθεον ἐξούλης

11

(Suidas, *s.v.* ὁμοῦ.)

[Th. 9] Εἰς τοσοῦτον πονηρίας ὁμοῦ καὶ τόλμης ἐλή-  
λυθεν.

### XIII. Κατ' Ἐλπαγόρου καὶ Δημοφάνους

12

(Harpocraton, *s.v.* σύνδικοι (*cf.* *Etym. Magn.* p. 734. 57).)

[Th. 10] Οἱ μὲν τὰ ἐκ Πειραιῶς, <ὡς><sup>1</sup> ἐγὼ ἀκούω,  
σύνδικοι ἦσαν, πρὸς οὓς τὰ δημευόμενα ἀπεφέρετο.<sup>2</sup>

<sup>1</sup> ὡς add. Bekker.

<sup>2</sup> ἀπεφέρετο Baiter-Sauppe: ἀπεφέροντο *Etym. Magn.*:  
ἐπεφέρετο Harpocraton.

## FRAGMENTS 8-12

and never has belonged to the heiress, but formed part of the patrimony of Lysimenes, the father of Menecrates, and Lysimenes received the whole of his father's estate.

### XI. *Against Diophanes, a defence in an action about a guardianship*

9

Part of the money <he paid> on the spot; he instructed them to receive payment of the rest from others.

10

Having myself paid part, namely, two talents and thirty minae, and instructions having been given to the farmer to pay the rest. . . .

### XII. *Against Dorotheus, in an action for forcible ejectment*

11

To such baseness and at the same time to such impudence has he resorted.

### XIII. *Against Elpagoras and Demophanes*

12

Those who after the return from the Peiraeus,<sup>a</sup> as I am told, acted as Syndics,<sup>b</sup> to whom questions of confiscated goods were referred.

<sup>a</sup> *i.e.*, after the expulsion of the Thirty Tyrants and the restoration of the democracy in 403 B.C.

<sup>b</sup> *Cf.* Lysias xvi. 7 (p. 146).

## ISAEUS

### XIV. Πρὸς Ἐπικράτην

13

(Lexicon ed. Sakkeliou, *B.C.H.* i. (1877) p. 151.)

[Th. 10<sup>a</sup>] Οὐ τοίνυν μόνον, ὦ ἄνδρες δικασταί, ταύτην τὴν μαρτυρίαν παρέξομαι, ἀλλὰ καὶ ἐκμαρτυρίαν ἑτέραν Μυρωνίδου, ὃς ἦν τῶν δημοτῶν πρεσβύτατος.

### XV. Πρὸς Ἑρμωνα περὶ ἐγγύης

14

(Suidas, *s.v.* ἀνακαῖον (*sic*).)

[Th. 11] Ἑρμοκράτην δὲ εἰς τὸ ἀναγκαῖον ἐνέβαλε φάσκων ἀπελεύθερον εἶναι, καὶ οὐ πρότερον ἀφῆκε πρὶν τριάκοντα δραχμὰς ἐπράξατο.

### XVI. Πρὸς Εὐκλείδην περὶ τῆς τοῦ χωρίου λύσεως

15

(Harpocration, *s.v.* Τρικέφαλος.)

[Th. 12] Μικρὸν δ' ἄνω τοῦ Τρικεφάλου παρὰ τὴν <ἐς> Ἑστιαῖαν<sup>1</sup> ὁδόν.

<sup>1</sup> ἐς Ἑστιαῖαν Ross: Ἑστίαν.

16

(Priscian, *Inst. Gram.* xvii. 18 (p. 70).)

[Th. 13] Οὐκ ἂν τὰ ἴδια τὰ ἑμμαντοῦ.

### XVII. Πρὸς Εὐκλείδην τὸν Σωκρατικόν

17

(Harpocration, *s.v.* ὅτι.)

[Th. 14] Ὅτι τὰ ἐπικηρυττόμενά τισι χρήματα ἐπὶ τῶν βωμῶν ἐτίθετο.

## FRAGMENTS 13-17

### XIV. *Against Epicrates*

13

I will produce, judges, not only this evidence but also a written deposition <sup>a</sup> made by Myronides, who was the senior among the demesmen.

### XV. *Against Hermon, in the matter of a surety*

14

He cast Hermocrates into prison, alleging that he was a freedman, and did not release him until he had extracted thirty drachmae from him.

### XVI. *Against Eucleides, regarding the release of a plot of land*

15

A little above the Three-headed statue <sup>b</sup> by the road leading to Hestiaea.

16

My private possessions would not be my own.

### XVII. *Against Eucleides the Socratic*

17

That sums offered for the apprehension of persons were placed upon the altars.

<sup>a</sup> Cf. iii. 18 and note.

<sup>b</sup> According to Harpocration a Hermes, *i.e.* a triple bust mounted on a pillar.

## XVIII. Ὑπὲρ Εὐμάθους, εἰς ἐλευθερίαν ἀφαίρεσις

18

(Dion. Hal. *De Isaeo*, § 5, p. 592.)

[Th. 15] "Ἄνδρες δικασταί, ἐγὼ καὶ πρότερον Εὐμάθει τουτῷ<sup>1</sup> ἐγενόμην χρήσιμος, [καὶ] δικαίως, καὶ νῦν, εἴ τι ἔστιν ἐν ἐμοί, πειράσομαι συσσώζειν αὐτὸν μεθ' ὑμῶν· μικρὰ δέ μου ἀκούσατε, ἵνα μηδεὶς ὑπολάβῃ ὑμῶν ὡς ἐγὼ προπετεία ἢ ἄλλη τινὶ ἀδικία πρὸς τὰ Εὐμάθους πράγματα προσήλθον. τριηραρχοῦντος γάρ μου ἐπὶ Κηφισοδότου ἄρχοντος, καὶ λόγου ἀπαγγελθέντος πρὸς τοὺς οἰκείους ὡς ἄρα τετελευτηκὼς εἶην ἐν τῇ ναυμαχίᾳ, οὔσης μοι παρακαταθήκης παρ' Εὐμάθει τουτῷ, μεταπεμψάμενος τοὺς οἰκείους τε καὶ φίλους τοὺς ἐμοὺς Εὐμάθης ἐνεφάνισε τὰ χρήματα ἃ ἦν μοι παρ' αὐτῷ, καὶ ἀπέδωκε πάντα ὀρθῶς καὶ δικαίως. ἀνθ' ὧν ἐγὼ σωθεὶς ἐχρώμην τε αὐτῷ ἔτι μᾶλλον, καὶ κατασκευαζομένῳ τὴν τράπεζαν προσεισευπόρησα ἀργυρίου, καὶ μετὰ ταῦτα ἄγοντος αὐτὸν Διονυσίου ἐξειλόμην εἰς ἐλευθερίαν, εἰδὼς ἀφειμένον ἐν τῷ δικαστηρίῳ ὑπὸ Ἐπιγένους. ἀλλὰ περὶ μὲν τούτων ἐπισχῆσω.<sup>2</sup>

<sup>1</sup> τουτῷ Scheibe: τούτῳ FM.<sup>2</sup> ἐπισχῆσω Sylburg: ὑποσχῆσω FM.

19

(Harpocration, *s.v.* ἀγει.)

[Th. 16] "Ἐβλαψέ με Ξενοκλῆς ἀφελόμενος Εὐμάθην εἰς ἐλευθερίαν, ἄγοντος ἐμοῦ εἰς δουλείαν κατὰ τὸ ἐμὸν μέρος.

## FRAGMENTS 18-19

### XVIII. *On behalf of Eumathes, for the assertion of the liberty of a freedman*

18

On a former occasion, judges, I rendered a service to Eumathes here, as was only right, and on the present occasion I intend to try, to the best of my ability, and save him with your assistance. I beg you to hear a short explanation from me, so that no one of you may imagine that I have interfered in his affairs in a spirit of petulance or from any other wrong motive. When I was trierarch in the archonship of Cephisodotus and news was brought to my relations that I had fallen in the sea-fight,<sup>a</sup> Eumathes here, with whom I had deposited some funds, sent for my relatives and friends and declared the money belonging to me which was in his hands and handed over the whole amount with scrupulous correctness and honesty. As a result of this conduct, when I returned safe home, I became still more intimate with him, and, when he established his bank, I provided him with capital, and afterwards, when Dionysius tried to enslave him, I asserted his liberty, being well aware that he had been liberated by Epigenes in open court. But of this I will say no more.

19

Xenocles wronged me in asserting the liberty of Eumathes when I claimed him for a slave as part of my inheritance.<sup>b</sup>

<sup>a</sup> The naval battle fought off Chios in 358 B.C. at the outbreak of the Social War.

<sup>b</sup> This appears to be a quotation from the adversary's speech.

## ISAEUS

20

(Suidas, *s.v.* ἐμποδών.)

[Th. 17] Ἀλλὰ τὸ πρωιζόν, ὦ ἄνδρες δικασταί<sup>1</sup>. τουτὶ γὰρ παντελῶς ἐμποδών ἐστι.

<sup>1</sup> δικασταί Scheibe: Ἀθηναῖοι libri.

### XX. Πρὸς Ἰσχόμαχον

21

(Harpocration, *s.v.* χίλιοι διακόσιοι.)

[Th. 18] Οὐδεὶς Λυσίδης ἐστὶ τῶν διακοσίων καὶ χιλίων.

### XXI. Πρὸς Καλλικράτην

22

(Suidas, *s.v.* ὁμοῦ.)

[Th. 19] Οὐ μὲν ἀλλὰ τούτου πάντα ὁμοῦ ταῦτα ἐπιτάξαντος

### XXIII. Κατὰ Καλλιφῶντος

23

(Harpocration, *s.v.* ἐπιτρέταις.)

[Th. 20] Ἑξακοσίαις δραχμαῖς ἐπιτρέταις

### XXIV. Πρὸς Καλυδῶνα

24

(Harpocration, *s.v.* Ἀνθεμόκριτος.)

[Th. 21] Τό τε βαλανεῖον τὸ παρ' Ἀνθεμοκρίτου ἀνδριάντα



## FRAGMENTS 20-24

20

But consider the recent past, judges ; for this is before your very eyes.

### XX *Against Ischomachus*

21

There is no one of the name of Lysides among the Twelve Hundred.<sup>a</sup>

### XXI. *Against Callicrates*

22

However since he gave all these instructions at the same time . . .

### XXIII. *Against Calliphon*

23

Six hundred drachmae at  $33\frac{1}{3}$  per cent interest . .

### XXIV. *Against Calydon*

24

And the bath-house near the statue of Anthemocritus . . .

<sup>a</sup> *i.e.*, the richest class of citizens who were liable to undertake the state services.

## ISAEUS

### XXVI. Πρὸς Λυσίβιον περὶ ἐπικλήρου

25

(Pollux, x. 15.)

[Th. 24] Τοιαῦτα μέντοι οὗτοι ἐπὶ τῷ τεθνεῶτι σκευο-  
ποιοῦντες

26

(Suidas, s.v. τέως.)

[Th. 25] Ἑγούμεθα γὰρ ἐκείνη μὲν τὸν ἐγγυτάτῳ γένους  
δεῖν συνοικεῖν, τὰ δὲ χρήματα τέως μὲν τῆς  
ἐπικλήρου εἶναι, ἐπειδὰν δὲ παῖδες ἐπὶ δίετες  
ἡβήσωσιν, ἐκείνους αὐτῶν κρατεῖν.

### XXX. Πρὸς Μενεκράτην

27

(Harpocraton, s.v. περιοίκιον.)

[Th. 25a] Καὶ τὸ περιοίκιον καὶ τὴν οἰκίαν

### XXXV. Πρὸς Ὀργεῶνας

28

(Harpocraton, s.v. παλίνσκιον.)

[Th. 26] Μήτε παλίνσκιον γίγνεσθαι τὸ χωρίον

29

(Harpocraton, s.v. ἀποφοράν.)

[Th. 27] Εἴπερ γοῦν ὥριζον ταῖς ἀποφοραῖς ταύταις τῶν  
ποδῶν ἀλλότριον εἶναι τὸ χωρίον

## FRAGMENTS 25-29

### XXVI. *Against Lysibius, in the matter of an heiress*

25

My opponents, however, forging documents such as these in the name of the deceased . . .

26

For we consider that the next-of-kin ought to marry this woman, and that the property ought for the present to belong to the heiress, but that, when there are sons who have completed their second year after puberty, they should have possession of it.<sup>a</sup>

### XXX. *Against Menecrates*

27

The ground round the house and the house itself . . .

### XXXV. *Against the members of a religious confraternity*

28

And that the plot of ground should not become overshadowed . . .

29

Since by these removals of the landmarks they indicated that the plot of ground belonged to someone else . . .

<sup>a</sup> Cf. Or. viii. 31.

## ISAEUS

### XLI. Πρὸς Στρατοκλέα

30

(Harpocraton, s.v. διωλύγιον.)

[Th. 27<sup>a</sup>] Πράγματα διωλύγια

31

(Harpocraton, s.v. μείον.)

Th. 27<sup>b</sup>] Παρέστησε μείον.

### XLIV. Πρὸς Τληπόλεμον ἀντωμοσία

32

(Ptolemaeus, Περὶ διαφορᾶς λέξεων (*Hermes*, xxii. (1887), p. 410).)

[Th. 27<sup>c</sup>] Ἐπειδὴ γοῦν οὐκ ἔδόκει χρῆναι πλέον δανεί-  
ζεσθαι

## ΑΠΑΡΑΣΗΜΑ

33

(Dion. Hal. *De Isaeo*, § 13, p. 609.)

[Th. 28] Καὶ οὗτος ὁ πάντων ἀνθρώπων σχετλιώτατος, οὐ παρεχομένων<sup>1</sup> αὐτῶν μάρτυρας [δοῦναι], ὧν ἐναντίον ἡμῖν ἀποδοῦναί φασιν, [ᾧν] ἐκείνοις πιστεύειν προσποιεῖται μᾶλλον ὥς ἀποδεδώκασιν ἡμῖν, ἢ <ἡμῖν><sup>2</sup> ὥς οὐκ ἀπειλήφαμεν. καίτοι πᾶσι φανερόν, [ὥς] οἷ γε<sup>3</sup> τὸν τούτου πατέρα ἀπεστέρου

<sup>1</sup> παρεχομένων Schoemann: -όμενος FM.

<sup>2</sup> ἡμῖν add. Reiske.

<sup>3</sup> οἷ γε Bekker: ἔοικε FM.

## FRAGMENTS 30-33

### XLI. *Against Stratocles*

30

Important matters <sup>a</sup> . . .

31

He offered a victim for sacrifice smaller than was prescribed.<sup>b</sup>

### XLIV. *Against Tlepolemus, on a special plea*

32

Since it did not seem that he ought to borrow more . . .

## UNIDENTIFIED FRAGMENTS

33

And my opponent, of all men the most wicked, though they do not produce any witnesses in whose presence they allege that they paid us, claims that you should believe their statement that they have paid us rather than our statement that we have received no payment. Yet it is obvious to all that men who defrauded my client's father when he was in full possession of civic rights, would not have

<sup>a</sup> διωλύγια ἀντὶ τοῦ μεγάλα (Harpocraton).

<sup>b</sup> The meaning is explained by Harpocraton.

## ISAEUS

ὄντα ἐπίτιμον, ὅτι ἡμῖν ἐκόντες οὐκ ἂν ἀπέδοσαν, εἰσπράξασθαι <δ' ><sup>1</sup> οὕτως ἔχοντες οὐκ ἂν ἐδυνήθημεν.

<sup>1</sup> δ' add. Sauppe.

34

(Dion. Hal. *De Isaeo*, § 13, p. 610.)

[Th. 29] ὦι γὰρ ἃ μὲν ὑπῆρχεν ἔξω τῶν ἀποτιμηθέντων κατελελητούργητο,<sup>1</sup> δανειζομένῳ δ' οὐδεὶς ἂν ἔδωκεν ἐπ' αὐτοῖς ἔτι πλέον οὐδὲν ἀποδεδωκότι τὰς μισθώσεις, ἔχειν ἐμοὶ προσῆκον ἀναμφισβητήτως, οὗτοι τηλικαύτην δίκην λαχόντες καὶ σφέτερα αὐτῶν εἶναι φάσκοντες ἐκώλυσάν με ἐξ αὐτῶν ποιήσασθαι τὴν ἐπισκευήν.

<sup>1</sup> κατελελητούργητο Buermann: καταλειτουργηκότα M, καταλειτουργηκότα F.

35

(Stobaeus, *Florileg.* v. 54.)

[Th. 30] Ἑγοῦμαι μεγίστην εἶναι τῶν λητουργιῶν τὸν καθ' ἡμέραν βίον κόσμιον καὶ σώφρονα παρέχειν.

36

(Stobaeus, *Florileg.* xlv. 25.)

[Th. 32] Ὅσοι τοὺς ἀδικοῦντας κολάζουσιν, οὗτοι τοὺς ἄλλους ἀδικεῖσθαι κωλύουσιν.

37

(Stobaeus, *Florileg.* xlviii. 25.)

[Th. 31] Χρὴ τοὺς νόμους μὲν τίθεσθαι σφοδρούς,<sup>1</sup> πρᾶοτέρως δὲ κολάζειν ἢ ὥς ἐκείνοι κελεύουσιν.

<sup>1</sup> σφοδρούς H. P. Richards: -ὤς FM.

## FRAGMENTS 33-37

paid us voluntarily, and that our situation <sup>a</sup> would not have allowed us to obtain recovery of it.

### 34

For since all I possessed, except property which had been mortgaged, had been spent on state services, and if I had tried to borrow on it, no one would have lent me any more, as I had alienated the revenue from it, though I have an undoubted right to . . . ,<sup>b</sup> my opponents, by bringing so serious a suit against me and alleging that the property is theirs, prevented me from using the money to carry out repairs.

### 35

I consider that the best service one can render to the state is orderly and sober conduct in everyday life.

### 36

They who punish those who wrong them prevent the rest of the citizens from being wronged.

### 37

The laws which are passed ought to be rigorous, but the punishment which is inflicted ought to be milder than they prescribe.

<sup>a</sup> *i.e.*, because they had lost their civic rights.

<sup>b</sup> The object of *ἐχέιν* appears to have fallen out.

# ISAEUS

38

(Suidas, s.v. αἰσθέσθαι.)

[Th. 33] Τί<sup>1</sup> δ' <ἐπὶ><sup>2</sup> τοιούτων δεῖ<sup>3</sup> μαρτυριῶν, <ῶν><sup>4</sup> οἱ δικάζοντες τὰ μὲν αὐτοὶ εἰσιν εἰδότες,<sup>5</sup> ὅτι ὑγίαιεν ὁ παῖς, <τὰ δὲ><sup>6</sup> τῶν ἑωρακότεων αἰσθανόμενοι μαρτυρούντων, τὰ δὲ ἀκοῇ πυνθανόμενοι;

<sup>1</sup> τί Schoemann: τὰ libri.

<sup>2</sup> ἐπὶ add. Sauppe.

<sup>3</sup> δεῖ Schoemann: δὴ libri.

<sup>4</sup> ῶν add. Bernadakis.

<sup>5</sup> εἰσιν εἰδότες Sauppe: συνειδότες libri.

<sup>6</sup> τὰ δὲ add. Schoemann.

39

(Priscian, xviii. 25, p. 230.)

[Th. 34] Ὅταν ἔλθῃ, εἰώθει παρ' ἐμοὶ κατάγεσθαι. Et iterum: ὅταν ἔλθῃ, παρ' ἐκείνῳ κατηγόμην.

40

(Pollux, iii. 6.)

[Th. 35] Ἐκ τῆς Ἀναξίωνος γέννας καὶ Πολυαράτου ὄντα

41

(Pollux, viii. 33.)

[Th. 36] Εἰς Ἀρειον πάγον αὐτῷ ἐπέσκημμαι.



## FRAGMENTS 38-41

38

What need is there for depositions in such circumstances, when those who are trying the case themselves know part of the truth, namely, that the child was in good health, and can learn the other facts from eyewitnesses or from hearsay ?

39

Whenever he came, he used to stay at my house. Whenever I came, I used to stay at his house.

40

Of the family of Anaxion and Polyaratus . . .

41

I denounced him before the Areopagus.



# INDEX

[The references are to the pages of the Translation (Text and Fragments)  
and of the List of Lost Speeches.]

Acamantis, tribe of, 449  
 Ace (Acre), 135  
 Acharnae, Attic deme, 43, 363, 449  
 Acropolis at Athens, 191  
*Adoption, On the*, 456  
 adoption, 41-9, 51-3, 63-7, 101, 109,  
 113, 119-21, 159, 165, 207-9, 225,  
 241, 257, 333; alleged fictitious,  
 249; of a daughter, 389; does  
 not detach a son from his mother,  
 265; formalities of, 251-3, 367;  
 motives for, 373, 435  
 adulterers, punishment of, 319  
 Aeschines, of Lusía, 261  
 Aethalidae, Attic deme, 89  
 affidavit, 161-3  
 Alce, courtesan, 215 ff.  
 Alcetas, king of the Molossians, 454  
 aliens, resident, see Resident  
 aliens  
 Ameiniades, 135  
 Anaxion, 431  
 Androcles, 203 ff.  
 Anthemocritus, statue of, 473  
 Antidorus, 203, 227, 231  
 Antiphanes, 223  
 Aphidna, Attic deme, 217  
 Aphrodite, altar of, at Cephale, 59  
 Apollo, Pythian, shrine of, 191;  
 Delphinian, 439  
*Apollodorus, Against*, 446  
*Apollodorus, On the Estate of*, 249 ff.  
 Apollodorus, (1) son of Thrasylus,  
 249 ff.; (2) son of Eupolis, 261 ff.  
 Araphen, Attic deme, 337  
 arbitration, 57-9, 183, 441  
 Archepolis, 447, 463  
 Archidamus, 249 ff.

Archippus, 447, 463  
 archon, 103-7, 113, 121, 223-5, 229,  
 413; wills deposited with, 221;  
 (Arimnestus) 211, (Cephiso-  
 dotus) 453, 471, (Eucleides) 231,  
 317  
 Areopagus, court of the, 481  
 Arimnestus, archon, 211  
*Aristarchus, On the Estate of*, 359 ff.  
 Aristarchus, (1) of Sypalettus, 359  
 ff.; (2) son of Cyronides, 359 ff.  
*Aristocles, Against*, 448  
*Aristogeiton and Archippus, Against*,  
 447, 463  
 Aristogeiton, slayer of the tyrant,  
 193  
 Aristolochus, of Aethalidae, 89  
*Aristomachus, Against*, 448, 463  
 Aristomenes, 359 ff.  
*Astyphilus, On the Estate of*, 327 ff.  
 Athena, 135  
 Athens, 421  
 Athmonon, near Athens, 223  
 Attica, demes of, Acharnae, 43, 363,  
 449; Aethalidae, 89; Aphidna,  
 217; Araphen, 337; Ceiriadae,  
 448; Cephisia, 205, 209, 221;  
 Cholgargus, 293; Coprus, 77;  
 Erchia, 89, 433; Iphistiadae, 329;  
 Lampra, 135; Lusía, 261; Paeania,  
 163; Phlya, 289, 311; Phrearrhi,  
 163; Pithus, 57, 299; Plotheia,  
 173; Potamus, 179; Sphettus,  
 45, 89, 449; Sypalettus, 363  
 banking, 452, 471  
 bath-house, 177, 181, 473; at  
 Serangion, 223

# INDEX

Besa, in S. Attica, 75, 135  
*Boeotus, Against*, 448  
 Bothynus, 465  
 boys, choir of, 275

*Callicrates, Against*, 453, 473  
*Calliphon, Against*, 453, 473  
 Callippe, 211 ff.  
*Callippides, Against*, 453  
*Calydon, Against*, 454, 473  
 Calydon, 446  
 Ceiriadae, Attic deme, 448  
 Cephale, altar of Aphrodite at, 59  
 Cephisander, 15  
 Cephisia, Attic deme, 205, 209, 221  
 Cephisodotus, (1) 161 ff. ; (2) archon, 453, 471  
 Cephisophon, of Paeania, 163 ff.  
 Cerameicus, district of Athens, 179, 215  
 Chaereas, 203 ff.  
 Chaereleos, 423  
 Chaeristratus, 203 ff.  
 Chaeron, 91  
 Chios, action off, 219, 471  
 Cholargus, Attic deme, 293  
 choregus, office of, 185-9, 239, 271  
*Ciron, On the Estate of*, 287 ff.  
 citizenship, rights of, 97, 317, 433 ff., 448, 477  
 Cleitarete (*alias* Phile), 77, 95, 111  
*Cleomedon, Against*, 454  
 Cleon, 327 ff.  
*Cleonymus, On the Estate of*, 7 ff.  
 Cleonymus, the Cretan, 187  
 clock, see Water-clock  
 Cnidus, battle off, 163, 191  
 codicil, 19  
*Confraternity, Against the members of a religious*, 456, 475  
 confraternity, religious, 49, 65 ; of Heracles, 347  
 Coprus, Attic deme, 77  
 Corinthian War, 167, 335, 375  
 court-fees, 103  
 Cranaus, 135  
 Cretan, 187  
 Crete, expedition to, 423  
 Ctesias, of Besa, 135  
 Ctesius, title of Zeus, 297  
 Cteson, 465  
 Cyronides, 359 ff.

daughter, adoption of, 389 ; daughters disposed of with an estate, 101, 114, 119, 369  
*Decisions, On the*, 447  
 defaulters, list of, 187  
 Deinias, 7 ff.  
 Delphinian Apollo, 439  
 Demaratus, 183, 437  
 deme, register of, 49, 65, 249, 267, 433  
 demes of Attica, see Attica, demes of  
*Demesmen, Against the*, 449, 463  
 demesmen, *passim* ; appeal against decision of, 448 ; entertained at marriage-feast, 123  
 Demochares, 359 ff.  
 Democles, of Phrearrhi, 163, 167  
 Democrates, of Aphidna, 217  
 Demophanes, 450-1  
 Demosthenes, 135  
 descendants, collateral X lineal, 307-11  
*Dicaeogenes, On the Estate of*, 159 ff.  
 Dicaeogenes, (1) strategus, 191 ; (2) son of Menexenus, 159 ff. ; (3) son of Proxenus, 159 ff.  
*Diocles, Against, for violence*, 449, 465  
*Diocles, Against, in the matter of an estate*, 450, 465-7  
 Diocles, (1) 15 ; (2) of Phlya, 289 ff., 449-50, 465-7 ; (3) of Pithus, 299  
 Dion, a freedman, 215  
 Dionysia, festival, 185, 297  
 Dionysius, (1) of Erchia, 89 ; (2) 453, 471  
 Dionysus, sacrifice to, 23  
 Diopethes, 185  
*Diophanes, Against*, 450, 467  
 Diophantus, of Sphettus, 89  
 divorce, 45, 97  
*Dorotheus, Against*, 450, 467  
 Dorotheus, of Eleusis, 89  
 dowries, 27, 45, 81, 97, 107, 121-3, 293, 373, 377, 417 ; (20 minae) 43, 179 ; (1000 drachmas) 105 ; recovery of dowry by widow, 83, 123

Eileithyia, shrine of, 189  
 ejectment, suit for, 177, 446, 450, 467  
 Eleusis, 89, 419 ; battle at, 191

# INDEX

- "Eleven," the (police magistrates), 147  
 Elius, of Sphettus, 45  
*Elpagoras and Demophanes, Against*, 450-1  
 Endius, 77 ff.  
*Epicrates, Against*, 451, 469  
 Epigenes, 452, 471  
 Eponymous Heroes, statues of, 187  
 Eponymus, of Acharnae, 43  
 Erchia, Attic deme, 89, 433  
 Ergamenes, 209  
 Eubulides, 389 ff.  
*Eucleides, Against*, 451, 469  
*Eucleides the Socratic, Against*, 452, 469  
 Eucleides, archon, 231, 317  
 Euctemon, 203 ff.  
*Eumathes, On behalf of*, 452-3, 471  
*Euphiletus, On behalf of*, 431 ff.  
 Eupolis, 249 ff.  
 Euthycrates, 337-9  
 evidence, nature of, 305-7, 461-3;  
   of slaves under torture, 213,  
   293-5, 307  
 false witness, see Perjury  
 freedman, 135, 215, 469; suit for  
   assertion of liberty of, 452-3,  
   471  
 funeral rites, 13, 43, 47, 61, 141,  
   241, 269, 305, 329, 331, 347  
 Glaucou, 389 ff.  
 goats, value of, 223  
 guardians, 11, 23, 446; actions  
   against, 409, 413; defence of,  
   450, 467; maladministration by,  
   253-5  
 gymnasiarch, 65, 239, 273  
*Hagnias, On the Estate of*, 389 ff.  
 Hagnon, 131 ff.  
*Hagnotheus, Against*, 445, 459-63  
 Hagnotheus, 131 ff.  
 Harmodius, (1) slayer of the  
   tyrant, 193; (2) son of Proxenus,  
   169  
 Hegemon, 437  
 heiress, maltreatment of, 103;  
   speech on behalf of an heiress,  
   454; see also Daughter  
 Heracles, confraternity of, 347  
 Hermocrates, 469  
*Hermon, Against*, 451  
 Hermon, 465  
 Heroes, Eponymous, statues of  
   the, 187  
 Hestiaea, 471  
 Hierocles, of Iphistiadae, 329 ff.  
 hierophant, 223, (Lacratidas) 255  
 horses, race-, 191  
 houses, prices of, (13 minae) 61;  
   (3 minae) 61; (5000 drachmae)  
   181; (3000 drachmae) 419; (2000  
   drachmae) 31; (500 drachmae)  
   419  
 impeachment, 103  
 influence, undue, allegations of,  
   41, 51, 55, 217  
 interest, rate of (33½ per cent),  
   473  
 interpreter of sacred law, 315  
 Iphicrates, his campaign in Thrace,  
   45  
 Iphistiadae, Attic deme, 329  
*Ischomachus, Against*, 453, 473  
 knight, 273  
 Lacedaemonians, 423  
 Lacratidas, the hierophant, 255  
 Lamptra, Attic deme, 135  
 landmarks, removal of, 475  
 Lechaeum, capture of, 187  
 Lemnian, 211  
 Leochares, 159 ff.  
 Leucolophus, 43  
 Lusia, Attic deme, 261  
 Lycon, 169  
*Lysibius, Against*, 454, 475  
 Lysides, 473  
 Lysimenes, 91, 450, 467  
 Macartatus, 423-5  
*Macedonia, On the Speeches made in*,  
   454  
 Maemacterion, Attic month (Oct.-  
   Nov.), 183, 257  
 magistrates, wills deposited with,  
   7-9, 13, 19; see also Archon,  
   "Eleven," Polemarch, Thesmo-  
   thete  
 marriage-feast, 121-3, 293, 299  
*Medon, Against*, 455  
*Megarians, Against the*, 454  
 Meixiades, of Cephisia, 209

# INDEX

- Melas, the Egyptian, 165, 189  
 Melite, district of Athens, 419  
*Menecles, On the Estate of*, 41 ff.  
*Menecrates, Against*, 455, 475  
 Menecrates, 450, 467  
 Menexenus, (1) son of Dicaeogenes, 161 ff.; (2) son of Cephisodotus, 169; (3) speaker of Or. v.  
 Metageitnion, Attic month (Aug.-Sept.), 111  
 Micion, 177  
 mines at Besa, 89  
 minor, incapable of making will, 367  
 Mnesiptolemus, 173, 183  
*Mnesitheus, On behalf of the daughter of*, 455  
 Mneson, 249  
 months, Attic: Maemacterion (Oct. - Nov.), 183, 257; Metageitnion (Aug.-Sept.), 111; Thargelion (May-June), 259  
 mortgage, 175, 223-5, 451, 479  
 mourning, 135  
 mule, value of, 223  
 Munychia, harbour of, 219  
 Myrmides, 469  
 Mytilene, 327, 335  
  
 Nausimenes, of Cholargus, 293, 297  
*Nicias, On behalf of*, 455  
 Nicias, 45  
*Nicocles (or Neocles), Against*, 455  
 Nicodemus, 77 ff.  
*Nicostratus, On the Estate of*, 131 ff.  
 Nicostratus, 437  
  
 Oenoë, 421  
 Olynthians, 191  
 Olynthus, 193  
 Orestes, nickname of Diocles of Phlya, 289, 319  
  
 Paeania, Attic deme, 163  
 Panormus, harbour of Attica, 23  
 Paralus, sacred vessel, 163, 191  
 Peiraeus, 215, 467  
 perjury, 41, 79, 81, 97, 107, 169, 173, 455-7  
 Phanostratus, 203 ff.  
 Pherenicus, 7, 23, 31  
 Phile (*alias* Cleitarete), 77, 95, 111  
  
 Philippus, of Pithus, 57  
 Philochares, 89  
*Philotemon, On the Estate of*, 203 ff.  
 Philonides, 41, 51, 61  
 Phlya, Attic deme, 289, 311  
 Phrearrhi, Attic deme, 163  
 Pisto Xenus, 211  
 Pithus, Attic deme, 57, 299  
 "Plain," the, 177  
 Plotheia, Attic deme, 173  
 polemarch, 446, 453  
 political clubs, 459  
 Polyaratus, 163, 481  
 Polyarchus, 7, 9, 27  
*Poseidippus, Against*, 456  
 Poseidippus, 7 ff.  
 Potamus, Attic deme, 179  
 prisoner, ransom of, 255  
 Prometheus, festival of, 273  
 Pronapes, 261-3, 273 ff.  
 Prospalta, 421-5  
 Protarchides, of Potamos, 179  
 protestation, 79, 101-3, 205, 211, 229, 233, 241-3  
 Proxenus, 159 ff.  
 public burdens, 147, 181, 193, 225, 239, 275, 419, 423-5, 459; see also Choregus, Gymnasiarch, Trierarch  
 Pylades, 91  
 Pyretides, 87, 91  
*Pyrrhus, On the Estate of*, 77 ff.  
 Pyrrhus, of Lamptra, 135  
 Pythaid festival, 267  
 Pythodorus, of Cephisia, 221 ff.  
*Python, Against*, 456  
  
 ransom of prisoner, 255  
*Resident Alien, On the Status of a*, 455  
 resident aliens, 446, 452  
  
*Sacred Enclosure, On the*, 457  
*Satyrus, Against*, 456  
 sculptor's workshop, 191  
 Serangion, at Peiraeus, 223  
 Sicily, expedition to, 203, 211-3, 253  
 Sicyon, 215  
 Simon, 7, 23  
 slaves, examination of, under torture, 213, 293-5, 307  
 Smicrus, 133, 145  
 Spartolus, 191  
 Sphecttus, Attic deme, 45, 89, 449

# INDEX

*Stratocles, Against*, 457, 477  
 Stratocles, 389 ff.  
 succession, law of, 263-5, 389 ff., 397  
 sureties, 159-63, 175-9, 451, 469  
 syndics, 467  
 Sypalettus, Attic deme, 363

Telephus, 135  
 Thargelia, festival, 259  
 Thargelion, Attic month (May-June), 259  
 Theban War, 335  
 theft, 147  
 Theophon, 419  
 Theopompus, 163, 167, 389  
 Thesmophoria, festival, 123, 299  
 Thesmothete (junior archon), 271  
 Thessaly, 335  
 Thrace, campaign in, 45  
 Thrasippus, 147  
 Thrasylbulus, 261, 265  
 Thrasyllus (1), 249 ff.; (2) grandson of (1), 249 ff.  
 Thrasymachus, 133, 145  
 "Three-headed statue," the, 469  
 "Three hundred," the, 239  
 Thria, near Eleusis, 419  
 Thudippus, 337-9  
*Thutimus, Against*, 453  
*Timonides, Against*, 457  
 Timotheus, Athenian commander, 219  
*Tlepolemus, Against*, 457

torch-races, 239  
 torture, examination of slaves under, 213, 293-5, 307  
 tragic competitions, 239  
 treasury, debtor to the public, 375  
 trierarch, 187, 205-7, 219, 239, 253, 269, 277, 471  
 tripod, 191, 275  
 "Twelve hundred," the, 473  
 tyrant, slayers of the, 193

voting-urn, 405-76

ward, admission to, 49, 65, 119-23, 217, 301, 435; register of, 259-61; statutes of, 121  
 water-clock, 59, 85, 121  
 wills, attestation of, 137-9; deposited with magistrates, 7-9, 13, 221; deposited with friends, 207; forged, 29; genuineness questioned, 335; minors incapable of making, 367; revocation of, 13, 17; validity of, 143  
 witness, false, see Perjury

Xenaenetus, (1) of Acharnae, 363 ff.; (2) son of Cyronides, 359  
 Xenocles, (1) of Coprus, 77 ff.; (2) 453, 471

Zeus & Ctesius, 297





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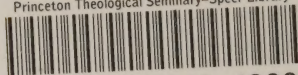
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